

FILED
COURT OF APPEALS
DIVISION TWO

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STATE OF WASHINGTON
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CLERK

No. 36201-5-II

COURT OF APPEALS, DIVISION TWO
OF THE STATE OF WASHINGTON

CITY OF GIG HARBOR, a Washington municipal corporation,

Respondent,

v.

RAINIER YACHT HARBOR, LLC et al

Appellant,

OPENING BRIEF OF ROBERT G. FRISBIE

Robert G. Frisbie, P.E.
For the Respondent
Pro Se

9720 Woodworth Avenue
Gig Harbor, WA 98332
(253) 224-3524
Email: bobfrisbie@foxinternet.com

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CP 273, 274 - AR #10 – City of Gig Harbor Revised Notice of Decision (Pages 1 & 2)
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I. INTRODUCTION

This appeal is about whether the Appellant Rainier Yacht Harbor, LLC (Rainier Yacht) qualifies under WAC 173-27-040 (Refer to CP 183) to construct the proposed improvements on the Gig Harbor shoreline. The Legislature expressly exempted certain development from having to obtain a shoreline development permit as outlined by the Shoreline Management Act (SMA) if said development met specific criteria for a single family home. Affirming the Superior Court's decision does not stop the development, it merely directs the Appellant to obtain a shoreline development permit.

This Court should affirm the decision of the Superior Court (CP 1314 – 1317) as it appropriately recognizes the Hearing Examiner did not decide whether the basement garages and 20-foot driveway were normal appurtenances necessarily connected to the use and enjoyment of the single-family residences as required by Washington Administrative Code 173-27-040(2)(g) (CP 183). CP 183 is missing pages 2 of 4, 3 of 4 and 4 of 4 for AR #1/Exhibit #1. Since this is the law referenced throughout this case I have included the missing pages in the attached Appendix.

I support the City of Gig Harbor, Respondent brief and add information that follows.

II. ASSIGNMENTS OF ERROR AND ISSUES

I support the Assignments of Error and Issues presented by the City of Gig Harbor, Respondent with one addition to the City's argument detailed below.

III. FACTS

The facts are as stated in the City of Gig Harbor, Respondent brief for the Statutory Background and the Factual Background with the exception that the Exhibit cross references to the CPs are incorrect and should read as follows:

Exhibit A – Statutory Warranty Deed, HE Ex 21, CP 322 – 327

Exhibit B – DNR Lease, HE Ex 25, CP 352 – 358

Exhibit C – Letter from Steel, HE Ex 28, CP 361 – 363

Exhibit D – Letter from Steel, HE Ex 3, CP 186

Exhibit E – Plan sheet, HE Ex 40, CP 409 – 435

Exhibit F – Gig Harbor Ord. 1003, HE Ex 15, CP 287 – 293

Exhibit G – Building Permits, HE Ex. 67, CP 641 – 728

Exhibit H – Declaration of Easement, HE Ex. 20, CP 314 –

321

Exhibit I (shown as "G") Request for Shoreline Exemption, HE

Ex 69, 70, CP 731 – 733

Exhibit J – JARPA Permit Application, HE Ex 55, CP 516 –
539

Exhibit K – Gig Harbor Ordinance 1008, HE Ex. 17, CP 300 –
307

Exhibit L – Letter from DOE, HE Ex. 2, CP 184 – 185

Exhibit M – Revised Notice of Decision, HE Ex. 10, CP 273 –
274

Exhibit N – Revised Notice of Decision, HE Ex. 144, CP 910 –
911

Exhibit O – 2nd Revised Notice of Decision, HE Ex. 155, CP
962 -965

Exhibit P – Declaration Vodopich, HE Ex. 156, CP 966 – 967

Exhibit Q – Declaration Osguthorpe, HE Ex. 157, CP 968 –
969

Exhibit R – Declaration Gilmore, HE Ex. 158, CP 970 – 971

Exhibit S – Declaration Hugo, HE Ex. 159, CP 972 – 973

IV. ARGUMENT

The Trial Court correctly determined that the City satisfied its
burden under RCW 36.70C.130(1) and reversed the Hearing

Examiner under RCW 36.70C.140. I support the City of Gig Harbor, Respondent's arguments and add the following:

Standard RCW 36.70C.130(1)(c) concerns a factual determination that the courts review for substantial evidence. "Substantial evidence is evidence that would persuade a fair-minded person of the truth of the statement asserted." *Freeburg v. Seattle*, 71 Wn. App. 367, 371, 859 P.2d 610 (1993).

Rainier Yacht submitted a chart to the Hearing Examiner entitled "Pierce County Garage Sizes, Information from Pierce County Assessor. (CP 549, (AR #61). Frisbie and Allen submitted a marked up version of CP 549 that is marked CP 540, (AR #56) with an added column noting the number of "Car Spaces" associated with each address. Frisbie and Allen presented the following facts: 1) Of the total number of addresses appearing on CP 540, only the top eight were on Gig Harbor bay itself, 2) The list was conspicuously absent an inventory of the garages existing on the City of Gig Harbor side of the bay, 3) Of the eight County side homes, the maximum number of car spaces was four, 4) Presented to the Hearings Examiner by Frisbie and Allen was the fact that the maximum number of car spaces on the City of Gig Harbor side of the bay was also four.

Rainier Yacht submitted a number of applications to various agencies to develop their property. These applications include but are not limited to the JARPA/Corps application CP 520, Item 7a and the WA State Department of Natural Resources application CP 354, Item 5. In both applications they clearly state the uplands will be used for parking to support their marina.

RCW 36.70C.130(1)(c), "The land use decision is not supported by evidence that is substantial when viewed in light of the whole record before the court;". WAC 173-27-040(2)(g) allows the use of the exemption for "normal" garages. The record shows the garages proposed will be able to park 14 and 16 cars respectively, the maximum number of garages on the Shoreline of the City of Gig Harbor and on the shoreline of Gig Harbor bay on the Pierce County side park a maximum of 4 vehicles. Clearly 14 and/or 16 cars is not normal since these numbers exceed the maximum (4) car garage spaces now occurring on the shorelines of Gig Harbor bay.

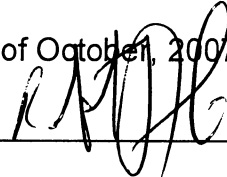
V. CONCLUSION

The Court should affirm the Trial Court's decision to reverse the Hearing Examiner's decision. This matter should be remanded to the City for entry of a denial of Rainier Yacht's requested

exemptions from the City's shoreline substantial development
permit requirement.

DATED this 22nd day of October, 2007.

By



Robert G. Frisbie, P.E.

For the Respondent Pro Se

FILED
COURT OF APPEALS
DIVISION II

07 OCT 22 AM 9:13

STATE OF WASHINGTON
BY _____
DEPUTY

CERTIFICATE OF SERVICE

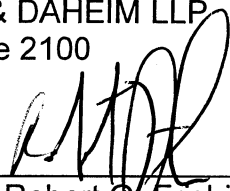
THIS IS TO CERTIFY that on the 22nd day of October 2007,
I did serve by method indicated below, true and correct copies of
the foregoing by addressing and directing for delivery to the
following:

Counsel for Respondent The City of Gig Harbor

Carol A. Morris
Law Office of Carol A. Morris, PC
7223 Seawitch Lane NW
Seabeck, WA 98380
Via U.S. Mail

Counsel for Appellant Rainier Yacht Harbor, LLC

Margaret Y. Archer
Law Offices of GORDON, THOMAS, HONEYWELL,
MALANCA, PETERSON & DAHEIM LLP
1201 Pacific Avenue, Suite 2100
P.O. Box 1157
Tacoma, WA 98401-1157



Robert G. Frisbie

- 1 WAC 173-27-040 Developments exempt from substantial development permit requirement. (1)
 2 Application and interpretation of exemptions.

3 (a) Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one
 4 or more of the listed exemptions may be granted exemption from the substantial development permit
 5 process.

6 (b) An exemption from the substantial development permit process is not an exemption from compliance
 7 with the act or the local master program, nor from any other regulatory requirements. To be authorized, all
 8 uses and developments must be consistent with the policies and provisions of the applicable master
 9 program and the Shoreline Management Act. A development or use that is listed as a conditional use
 10 pursuant to the local master program or is an unlisted use, must obtain a conditional use permit even though
 11 the development or use does not require a substantial development permit. When a development or use is
 12 proposed that does not comply with the bulk, dimensional and performance standards of the master
 13 program, such development or use can only be authorized by approval of a variance.

14 (c) The burden of proof that a development or use is exempt from the permit process is on the applicant.

15 (d) If any part of a proposed development is not eligible for exemption, then a substantial development
 16 permit is required for the entire proposed development project.

17 (e) Local government may attach conditions to the approval of exempted developments and/or uses as
 18 necessary to assure consistency of the project with the act and the local master program.

19 (2) The following developments shall not require substantial development permits:

20 (a) Any development of which the total cost or fair market value, whichever is higher, does not exceed
 two thousand five hundred dollars, if such development does not materially interfere with the normal public
 use of the water or shorelines of the state. For purposes of determining whether or not a permit is required,
 the total cost or fair market value shall be based on the value of development that is occurring on shorelines
 of the state as defined in RCW 90.58.030 (2)(c). The total cost or fair market value of the development shall
 include the fair market value of any donated, contributed or found labor, equipment or materials;

(b) Normal maintenance or repair of existing structures or developments, including damage by accident,
 fire or elements. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation
 from a lawfully established condition. "Normal repair" means to restore a development to a state comparable
 to its original condition, including but not limited to its size, shape, configuration, location and external
 appearance, within a reasonable period after decay or partial destruction, except where repair causes
 substantial adverse effects to shoreline resource or environment. Replacement of a structure or
 development may be authorized as repair where such replacement is the common method of repair for the
 type of structure or development and the replacement structure or development is comparable to the original
 structure or development including but not limited to its size, shape, configuration, location and external
 appearance and the replacement does not cause substantial adverse effects to shoreline resources or
 environment;

(c) Construction of the normal protective bulkhead common to single-family residences. A "normal
 protective" bulkhead includes those structural and nonstructural developments installed at or near, and
 parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence
 and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if
 constructed for the purpose of creating dry land. When a vertical or near vertical wall is being constructed or
 reconstructed, not more than one cubic yard of fill per one foot of wall may be used as backfill. When an
 existing bulkhead is being repaired by construction of a vertical wall, fronting the existing wall, it shall be
 constructed no further waterward of the existing bulkhead than is necessary for construction of new footings.
 When a bulkhead has deteriorated such that an ordinary high water mark has been established by the
 presence and action of water landward of the bulkhead then the replacement bulkhead must be located at or
 near the actual ordinary high water mark. Beach nourishment and bioengineered erosion control projects
 may be considered a normal protective bulkhead when any structural elements are consistent with the
 above requirements and when the project has been approved by the department of fish and wildlife.

(d) Emergency construction necessary to protect property from damage by the elements. An
 "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which
 requires immediate action within a time too short to allow full compliance with this chapter. Emergency

construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to chapter 90.53 RCW, these regulations, or the local master program, obtained. All emergency construction shall be consistent with the policies of chapter 90.53 RCW and the local master program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency;

(e) Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, construction of a barn or similar agricultural structure, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels: Provided, That a feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations;

(f) Construction or modification, by or under the authority of the Coast Guard or a designated port management authority, of navigational aids such as channel markers and anchor buoys;

(g) Construction on shorelands by an owner, lessee or contract purchaser of a single-family residence for their own use or for the use of their family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof. "Single-family residence" means a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance. An "appurtenance" is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. On a statewide basis, normal appurtenances include a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark. Local circumstances may dictate additional interpretations of normal appurtenances which shall be set forth and regulated within the applicable master program. Construction authorized under this exemption shall be located landward of the ordinary high water mark;

(h) Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owners, lessee, or contract purchaser of a single-family and multiple-family residences. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances. This exception applies if either:

(i) In salt waters, the fair market value of the dock does not exceed two thousand five hundred dollars; or

(ii) In fresh waters the fair market value of the dock does not exceed ten thousand dollars, but if subsequent construction having a fair market value exceeding two thousand five hundred dollars occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this chapter.

For purposes of this section salt water shall include the tidally influenced marine and estuarine water areas of the state including the Pacific Ocean, Strait of Juan de Fuca, Strait of Georgia and Puget Sound and all bays and inlets associated with any of the above;

(i) Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored ground water from the irrigation of lands;

(j) The marking of property lines or corners on state-owned lands, when such marking does not significantly interfere with normal public use of the surface of the water,

(k) Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on June 4, 1975, which were created, developed or utilized primarily as a part of an agricultural drainage or diking

AR#1

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system;

(l) Any project with a certification from the governor pursuant to chapter 30.50 RCW;

(m) Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:

(i) The activity does not interfere with the normal public use of the surface waters;

(ii) The activity will have no significant adverse impact on the environment including but not limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;

(iii) The activity does not involve the installation of any structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;

(iv) A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure that the site is restored to preexisting conditions; and

(v) The activity is not subject to the permit requirements of RCW 90.58.350;

(n) The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the department of agriculture or the department of ecology jointly with other state agencies under chapter 43.21C RCW;

(o) Watershed restoration projects as defined herein. Local government shall review the projects for consistency with the shoreline master program in an expeditious manner and shall issue its decision along with any conditions within forty-five days of receiving all materials necessary to review the request for exemption from the applicant. No fee may be charged for accepting and processing requests for exemption for watershed restoration projects as used in this section.

(i) "Watershed restoration project" means a public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of the plan and consists of one or more of the following activities:

(A) A project that involves less than ten miles of streamreach, in which less than twenty-five cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings;

(B) A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or

(C) A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structure, other than a bridge or culvert or instream habitat enhancement structure associated with the project, is less than two hundred square feet in floor area and is located above the ordinary high water mark of the stream.

(ii) "Watershed restoration plan" means a plan, developed or sponsored by the department of fish and wildlife, the department of ecology, the department of natural resources, the department of transportation, a federally recognized Indian tribe acting within and pursuant to its authority, a city, a county, or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to chapter 43.21C RCW, the State Environmental Policy Act;

(p) A public or private project, the primary purpose of which is to improve fish or wildlife habitat or fish passage, when all of the following apply:

(i) The project has been approved in writing by the department of fish and wildlife as necessary for the

AR #1

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improvement of the habitat or passage and appropriately designed and sited to accomplish the intended purpose;

(ii) The project has received hydraulic project approval by the department of fish and wildlife pursuant to chapter 75.20 RCW; and

(iii) The local government has determined that the project is consistent with the local shoreline master program. The local government shall make such determination in a timely manner and provide it by letter to the project proponent.

(3) Hazardous substance remedial actions. The procedural requirements of chapter 90.53 RCW shall not apply to a project for which a consent decree, order or agreed order has been issued pursuant to chapter 70.105D RCW or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW. The department shall, in consultation with the appropriate local government, assure that such projects comply with the substantive requirements of chapter 90.53 RCW, chapter 173-26 WAC and the local master program.

[Statutory Authority: RCW 90.53.140(3) and 90.53.200, 96-20-075 (Order 95-17), § 173-27-040, filed 9/30/96, effective 10/31/96.]

AR # 1

4/4



COMMUNITY DEVELOPMENT DEPARTMENT

REVISED NOTICE OF DECISION

DENIAL OF SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT EXEMPTION

A Notice of Decision was issued in November 2, 2005, to Rainier Yacht Harbor, LLC for the denial of the Shoreline Substantial Development Permit Exemption Request for the Burton Residence and Steel Residence. This revision supersedes the Notice of Decision issued on November 2, 2005.

Date: November 7, 2005
Applicant: Rainier Yacht Harbor, LLC
 Bruce Steel, Managing Member
 Norpoint Communities
 2323 North 31st Street, Suite 200
 P.O. Box 875
 Tacoma, WA 98401
Re: Shoreline Exemption Requests (EXP 05-837 and EXP 05-836)

I. Findings of Fact. The applicant has submitted the following facts in support of a request for a shoreline substantial development permit exemption for the single family residences located at 3525 and 3555 Harborview Drive:

1. The residence located at 3525 Harborview Drive will be constructed for the use of Mike Burton and his family, for use as a single family residence and garage appurtenant to a single family residence, as allowed under WAC 173-27-040(g).
2. The residence located at 3555 Harborview Drive will be constructed for the use of Bruce Steel and his family, for use as a single family residence and garage appurtenant to a single family residence, as allowed under WAC 173-27-040(g).
3. The two residences do not exceed a height of 35 feet above average grade level.
4. Grading on site for the garages appurtenant to the proposed single family residences exceeds 1500 cubic yards of material for each residence.
5. On November 2, 2005, the City received a letter from Kim Van Zwahlenburg of the Department of Ecology, which provides DOE's interpretation of WAC 173-27-040(g) that any grading exceeding 1500 250 cubic yards of material for a single family residence requires a shoreline substantial development permit. This letter includes additional rationale for DOE's opinion that a shoreline substantial development permit is required.

II. Conclusions.

EXHIBIT #10

HEX EXHIBIT# 10
 APPEAL NOS. 05-1097, 05-1143, 05-1144

Threshold Decision: Permit is exempt from SEPA per WAC 197-11-800(1)(b)(i)

Based on WAC 173-27-040(g), grading for a single family residence which exceeds 1500 cubic yards of material requires a shoreline substantial development permit. The permit application materials demonstrate that grading for each single family residence associated with the construction of the large garages exceeds 1500 cubic yards of material. The requests for exemptions EXP 05-837 and EXP 05-836 are denied. The applicant is required to submit shoreline substantial development permit applications for the development(s).

III. Appeals.

This decision may be administratively appealed to the Gig Harbor Hearing Examiner pursuant to the procedures in Section 4.10 of the City's Shoreline Master Program, within ten days following the issuance of this Notice of Decision.

IV. Distribution.

This Notice of Decision shall be provided to the following persons:

Rainier Yacht Harbor, LLC
Bruce Steel, Managing Member
P.O. Box 875
Tacoma, WA 98401

Richard B. Allen and
Bob Frisbie
3603 Ross Avenue
Gig Harbor WA 98332

Lita Dawn Stanton
111 Raft Island
Gig Harbor WA 98335

Kim Van Zwahlenburg
Shoreline Specialist
Department of Ecology - Southwest
Regional Office
PO Box 47775
Olympia WA 98504-7775

Chuck Hunter
8829 Franklin Avenue
Gig Harbor WA 98332

Pierce County Assessor
2401 South 35th Street Room 142
Tacoma, WA 98409

Tomi Kent Smith
3414 Harborview Drive
Gig Harbor WA 98332

Peter Katich
3509 Ross Avenue
Gig Harbor WA 98332

V. RCW 36.70B.130 requires that every Notice of Decision state that affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.

Date

11/7/05

John P. Vodopich, AICP

Gig Harbor Community Development Director

EXHIBIT #10

2/2

LAW OFFICES

GORDON, THOMAS, HONEYWELL, MALANCA, PETERSON & DAHEIM LLP

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COMMUNITY
DEVELOPMENT

November 7, 2005

John Vodopich
Community Development Director
City of Gig Harbor
3510 Grandview Street
Gig Harbor, WA 98335

Michael R. Kenyon
Gig Harbor Hearing Examiner
11 Front Street S.
Issaquah, WA 98027-3820

RE: Appeal from Notice of Decision (Denial of Shoreline Substantial Development
Permit Exemption (Shoreline Exemption Requests EXP 05-837 and EXP 05-836)
RAINIER YACHT HARBOR, LLC

Dear Mr. Vodopich and Examiner Kenyon:

This letter shall serve as the Applicant's appeal from the Notice of Decision – Denial of Shoreline Substantial Development Permit Exemption regarding the above-referenced files and dated November 2, 2005. A copy of the Notice of Decision is attached to this letter.

The Appellant is Rainier Yacht Harbor, LLC and its address is PO Box 875, Tacoma, WA 98401, Attn: Bruce Steel, Managing Member.

The Appellant's attorney is William T. Lynn, Gordon, Thomas, Honeywell, Malanca, Peterson & Daheim, LLP, 1201 Pacific Avenue, Suite 2100, PO Box 1157, Tacoma, WA 98401-1157 (253-620-6416).

This appeal is submitted under Section 4.10 of the City of Gig Harbor's Shoreline Master Program. This appeal is based upon the following alleged errors:

1. Finding of Fact No. 4 is erroneous. The only "grading" under these proposals is a very limited amount of earth movement; the 1500-cubic yards cited is excavation for construction of foundations, footings, garages, and basement storage areas beneath each residence.

2. The construction of a single-family home is exempt under RCW 90.58.030(3)(e)(vi). This exemption applies notwithstanding the amount of any associated

[1330186 v1]

EXHIBIT #11

HEX EXHIBIT# 11
APPEAL NOS. 05-1097, 05-1143, 05-1144

CORDON, THOMAS, HONEYWELL
MALANCA, PETERSON & DAHEIM LLP

November 7, 2005

Page 2

*"grading" or earth removal for foundation construction. The City does not have the authority to regulate activities that are exempted under state law.

3. WAC 173-27-040(2)(g) also exempts the subject applications.

4. The City previously interpreted the same provision at issue here as to these specific applications and concluded that the limit on grading in WAC 173-27-040(2)(g) only applied to grading connected with installation of a septic tank and drainfield. The City is estopped to change this interpretation, and this issue has already been conclusively decided in the Applicant's favor. The City's change in interpretation is time-barred.

5. The interpretation that "grading" includes foundation construction is contrary to WAC 173-26-020(17) which limits that definition to activities that alter the natural contour of the land. The interpretation is also contrary to common usage of the term.

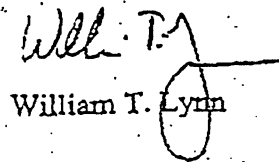
6. The interpretation of the City in this case is contrary to the City's longstanding interpretation of the applicable provisions of the Shoreline Management Program and Shoreline regulations. The City has consistently exempted single-family homes from the requirement for a substantial development permit, without regard to the amount of grading excavation related to foundation construction.

7. The City's decision is contrary to law, including the Shoreline Management Act and the City Shoreline Master Program.

8. The City's decision is arbitrary and capricious, clearly erroneous and not supported by substantial evidence.

The Appellant requests reversal of the City's decision. Mr. Steel will be delivering the \$130 appeal fee directly to the City. If anything further is necessary to perfect this appeal, please notify the undersigned immediately.

Very truly yours,


William T. Lynn

WTL:fto
Enclosure

cc: Bruce Steel
Carol Morris

[1330186 v1]

EXHIBIT #11

2/6



COMMUNITY DEVELOPMENT DEPARTMENT

RECEIVED
CITY OF GIG HARBOR
NOV 08 2005
COMMUNITY
DEVELOPMENT

NOTICE OF DECISION

DENIAL OF SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT EXEMPTION

Date: November 2, 2005
Applicant: Rainier Yacht Harbor, LLC
Bruce Steel, Managing Member
Norpoint Communities
2323 North 31st Street, Suite 200
P.O. Box 875
Tacoma, WA 98401
Re: Shoreline Exemption Requests (EXP 05-837 and EXP 05-836)

I. Findings of Fact. The applicant has submitted the following facts in support of a request for a shoreline substantial development permit exemption for the single family residences located at 3525 and 3555 Harborview Drive:

1. The residence located at 3525 Harborview Drive will be constructed for the use of Mike Burton and his family, for use as a single family residence and garage appurtenant to a single family residence, as allowed under WAC 173-27-040(g).
2. The residence located at 3555 Harborview Drive will be constructed for the use of Bruce Steel and his family, for use as a single family residence and garage appurtenant to a single family residence, as allowed under WAC 173-27-040(g).
3. The two residences do not exceed a height of 35 feet above average grade level.
- X 4. Grading on site for the garages appurtenant to the proposed single family residences exceeds 1500 cubic yards of material for each residence.
5. On November 2, 2005 the City received an letter from Kim Van Zwahlenburg of the Department of Ecology, which provides DOE's interpretation of WAC 173-27-040(g) that any grading exceeding 1500 cubic yards of material for a single family residence requires a shoreline substantial development permit. This letter includes additional rationale for DOE's opinion that a shoreline substantial development permit is required.

II. Conclusions.

Threshold Decision: Permit is exempt from SEPA per WAC 197-11-800(1)(b)(i)

Based on WAC 173-27-040(g), grading for a single family residence which exceeds 1500 cubic yards of material requires a shoreline substantial development permit. The permit application materials demonstrate that grading for each single family residence associated with the construction of the large garages exceeds 1500 cubic yards of material. The requests for exemptions EXP 05-837 and EXP 05-836 are denied. The applicant is required to submit shoreline substantial development permit applications for the development(s).

III. Appeals.

This decision may be administratively appealed to the Gig Harbor Hearing Examiner pursuant to the procedures in Section 4.10 of the City's Shoreline Master Program, within ten days following the issuance of this Notice of Decision.

IV. Distribution.

This Notice of Decision shall be provided to the following persons:

Rainier Yacht Harbor, LLC
Bruce Steel, Managing Member
P.O. Box 875
Tacoma, WA 98401

Lita Dawn Stanton
111 Raft Island
Gig Harbor WA 98335

Chuck Hunter
8829 Franklin Avenue
Gig Harbor WA 98332

Tomi Kent Smith
3414 Harborview Drive
Gig Harbor WA 98332

Peter Katich
3509 Ross Avenue
Gig Harbor WA 98332

Richard B. Allen and
Bob Frisbie
3603 Ross Avenue
Gig Harbor WA 98332

Kim Van Zwalenburg
Shoreline Specialist
Department of Ecology - Southwest
Regional Office
PO Box 47775
Olympia WA 98504-7775

Pierce County Assessor
2401 South 35th Street Room 142
Tacoma, WA 98409

V. RCW 36.70B.130 requires that every Notice of Decision state that affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.

Date

11/2/05

John P. Vodopich, AICP
Gig Harbor Community Development Director

Nov. 2, 2005 10:50AM

2537592342

3242 5/26/2006 08134

Whitmont

T-956 P04/05 U-604

No. 0034 P. 2



STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300

November 2, 2005

Ms. Kristin Moerler
City of Gig Harbor
Community Development Department
3510 Grandview Street
Gig Harbor, WA 98335

RECEIVED
CITY OF GIG HARBOR

NOV 02 2005

COMMUNITY
DEVELOPMENT

Re: Burton and Steel Residential Proposals

Dear Ms. Moerler:

This letter follows my e-mail message sent to you on October 27, 2005, and is a hardcopy of the comments sent in late that afternoon.

Mr. Bob Frisbie and Mr. Richard Allen contacted me regarding these proposals taking place on adjacent parcels. Their question largely had to do with the applicability of the single-family residential exemption under the Shoreline Management Act as it pertains to the proposal that is currently before the City.

I have reviewed the documents they have which I believe they obtained from the City's files. As I understand it, both proposals involve two floors of residential space and an underground parking garage. Development of both sites will require a significant amount of grading and they are asking whether Ecology considers grading in excess of 250 cubic yards as needing a Shoreline Substantial Development Permit.

We have historically advised local governments that grading which exceeds 250 cubic yards, does trigger the need for a Substantial Development Permit and does not meet the exemption criteria for construction of a single family residence as defined by the state in our rule WAC 173-27-040(2)(g) and in RCW 90.58 030(3)(e)(vi). This 250 cubic yard quantity listed as a normal appurtenance is over and above any grading that might be required to install a septic system and drainfield. It is my understanding that the grading proposed is approximately 1500 cubic yards per lot.

I have received a number of shoreline permits from a variety of local jurisdictions for this very sort of proposal. The home itself was exempt but the preparation of the lot, involving significant quantities of grading triggered the need for a permit.

5/6

27941617 #11

11/03/2005 10:22 IFA 20.1
11-03-05 11:31 FROM:
Nov. 2, 2005 10:50AM

-law.com

2537592342

3242 5/26/2006 00135

Whitmont
T-956 P05/05 @005/005
U-601

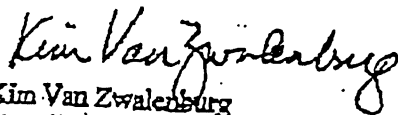
No. 0034 P. 3

Kristin Moeller
November 2, 2005
Page 2

As a final point, I am hard pressed to believe that a 17-car garage, or even a 14-car garage, meets the true intent of a garage as a "normal appurtenance" to a single family residence. If the intent is to ultimately use those parking garages to serve a future marina, it would appear that this project is coming in a piecemeal fashion and is inconsistent with the policies of the Shoreline Management Act (see RCW 90.58.020) which was promulgated for that very reason.

Please feel free to contact me at (360) 407-6520, or by e-mail at kvan461@ccv.wa.gov, if you have any questions.

Sincerely,



Kim Van Zwanenburg
Shoreline Specialist
Shorelands and Environmental
Assistance Program

KV:dn

cc: Richard Allen & Bob Frisbie
John Vodopich, Gig Harbor Community Development Director

RECEIVED
CITY OF GIG HARBOR

NOV 02 2005

COMMUNITY
DEVELOPMENT

EXHIBIT #11
280

MAY 24 2005
CHICAGO TITLE
439499

200505240604 8 PGS
05-24-2005 11:48am \$26.00
PIERCE COUNTY, WASHINGTON

WHEN RECORDED RETURN TO:

Mark R. Roberts
DAVIS ROBERTS & JOHNS, PLLC
7525 Pioneer Way, Suite 202
Gig Harbor, WA 98335

DECLARATION OF EASEMENT

GRANTOR: NICK JERKOVICH, NICKOLAS JERKOVICH, JR., JOHN JERKOVICH,
MARY ELLEN J. HANSON AND ELVY JERKOVICH.
GRANTEE: NICK JERKOVICH, NICKOLAS JERKOVICH, JR., JOHN JERKOVICH,
MARY ELLEN J. HANSON AND ELVY JERKOVICH.

Legal Description (abbreviated): Lot 5, BL 3 MILLVILLE
Additional legal(s) on page 1 of document.
Assessor's Tax Parcel ID No. 597000-024-1 and 597000-024-2.
Reference Nos. of Documents Released or Assigned: None.

THIS DECLARATION is made this 20 day of May, 2005 by the Estate of Nick Jerkovich, Nickolas Jerkovich, Jr., John Jerkovich, Mary Ellen J. Hanson and Elvy Jerkovich (hereinafter collectively the "Declarants").

RECITALS

A. Declarants are all of the owners of a parcel of real property commonly known as 3525 Harborview Drive, Gig Harbor, Pierce County, Washington and legally described as follows:

LOT 5, BLOCK 3, TOWN OF MILLVILLE, PIERCE COUNTY, W.T.,
ACCORDING TO PLAT RECORDED IN BOOK 2 OF PLATS, PAGE 23,
RECORDS OF PIERCE COUNTY AUDITOR.

TOGETHER WITH SECOND CLASS TIDELANDS ABUTTING THEREON
TO MEAN LOW TIDE.

SITUATE IN THE CITY OF GIG HARBOR, COUNTY OF PIERCE, STATE OF
WASHINGTON.

Hereinafter "the Property".

Declaration of Easement
Page 1 of 7

EXCISE TAX EXEMPT DATE 5/24/05
Pierce County

By [Signature] Auth. Sig

EXHIBIT # 20

HEX EXHIBIT# 20
APPEAL NOS. 05-1097, 05-1143, 05-1144

1 B. Declarants and their predecessors have used the Property and adjacent dock
2 and floats for more than 100 years as a part of their family commercial fishing
3 operations, including without limitation the moorage and maintenance of fishing
4 vessels, storage of nets and related fishing and maritime activities.

5 C. Declarants anticipate selling the Property but wish to retain access to the dock
6 for the purpose of continuing their use of the dock and floats for fishing and maritime
7 purposes. Therefore, Declarants wish to reserve and convey to themselves and their
8 successors and assigns an easement over the Property for the purpose of ingress,
9 egress and utilities from the public right-of-way to the dock and floats.

EASEMENTS

10 1. Access Easement. Declarants hereby grant, convey and reserve unto
11 themselves, their children (including without limitation Nickolas J. Jerkovich III and
12 Marc E. Jerkovich) and their heirs, a non-exclusive easement for ingress and egress
13 ten (10) feet in width on a route from the public right-of-way known as Harborview
14 Drive to the existing dock. The right-of-way, the Property and the dock are all
15 depicted on Exhibit "A". The easement shall be initially located along the southern
16 property line as depicted on Exhibit "A". Provided, however, that the owner of the
17 Property, its successors and assigns (hereinafter the "Property Owner"), may
18 relocate the easement at any time, to a location on the Property, or adjoining
19 property or properties, but at the Property Owner's sole cost and expense. If the
20 easement is relocated, the Property Owner may not interrupt Declarants' access.
21 The relocated easement shall be ten (10) feet in width and have turning radiuses
22 sufficient to allow vehicular and trailer ingress and egress from Harborview Drive to
23 the dock and is intended to include, without limitation, commercial uses related to the
24 fishing and maritime industries.

25 2. Utility Easement. Declarants hereby grant, convey and reserve unto
26 themselves, their children (including without limitation Nickolas J. Jerkovich III and
27 Marc E. Jerkovich) and their heirs a non-exclusive easement for utilities from the
28 public right-of-way known as Harborview Drive to the existing dock. Provided,
29 however, that the Property Owner may relocate the easement at any time, but at the
30 Property Owner's sole cost and expense. If the easement is relocated, the Property
31 Owner may not interrupt Declarants' use of the utilities for a period in excess of
32 twenty-four (24) hours.

33 3. Indemnification. Declarants agree to indemnify and hold the Property Owner
34 harmless from and against any and all claims, debts, demands, suits or obligations
35 which may be made against the Property Owner arising out of, or in connection with,
36 any alleged negligent and/or wrongful act or omission of Declarants or any person
37 claiming under, by, or through Declarants.

Declaration of Easement

Page 2 of 7

EXHIBIT #20

2/8

4. Termination. This Declaration shall terminate upon the cessation of use of the docks for fishing and/or maritime purposes.
5. Modification. A modification, waiver, amendment, discharge, or change of this Declaration shall be valid only if in writing and executed by the Property Owner and the Declarants.
6. Attorney's Fees. The prevailing party in any action arising out of or related to the enforcement or interpretation of this Declaration shall be entitled to its reasonable attorney's fees and costs.
7. Benefits and Burdens of this Declaration. The rights and obligations set forth herein shall inure to and be binding upon the Declarants, their heirs, successors and assigns. The Declarants expressly intend to assign their rights herein for the continued operation of docks for fishing and maritime use. Any assignment of these rights shall be reflected in a written document and recorded.
8. Severability. If any term, provision, covenant or condition of this Declaration is held to be invalid, void or otherwise unenforceable, to any extent, the remainder of this Declaration shall not be affected thereby, and each term, provision, covenant or condition of this Declaration shall be valid and enforceable to the fullest extent permitted by law.
9. Counterparts. This Declaration may be executed in multiple counterparts, each of which shall be deemed to be an original declaration, and all of which shall constitute one declaration.

ESTATE OF NICK JERKOVICH

By: Patricia Jerkovich
PATRICIA JERKOVICH
Personal Representative

Nickolas Jerkovich Jr
NICKOLAS JERKOVICH, JR.

John Jerkovich
JOHN JERKOVICH

Mary Ellen G. Hanson
Now Mary Ellen G. Silmower
MARY ELLEN G. HANSON

ELVY JERKOVICH

Declaration of Easement
Page 3 of 7

EXHIBIT #20

3/8

4. Termination. This Declaration shall terminate upon the cessation of use of the docks for fishing and/or maritime purposes.
5. Modification. A modification, waiver, amendment, discharge, or change of this Declaration shall be valid only if in writing and executed by the Property Owner and the Declarants.
6. Attorney's Fees. The prevailing party in any action arising out of or related to the enforcement or interpretation of this Declaration shall be entitled to its reasonable attorney's fees and costs.
7. Benefits and Burdens of this Declaration. The rights and obligations set forth herein shall inure to and be binding upon the Declarants, their heirs, successors and assigns. The Declarants expressly intend to assign their rights herein for the continued operation of docks for fishing and maritime use. Any assignment of these rights shall be reflected in a written document and recorded.
8. Severability. If any term, provision, covenant or condition of this Declaration is held to be invalid, void or otherwise unenforceable, to any extent, the remainder of this Declaration shall not be affected thereby, and each term, provision, covenant or condition of this Declaration shall be valid and enforceable to the fullest extent permitted by law.
9. Counterparts. This Declaration may be executed in multiple counterparts, each of which shall be deemed to be an original declaration, and all of which shall constitute one declaration.

ESTATE OF NICK JERKOVICH

By: PATRICIA JERKOVICH
Personal Representative

NICKOLAS JERKOVICH, JR.

JOHN JERKOVICH

MARY ELLEN J. HANSON

Elvy Jerkovich
ELVY JERKOVICH

Declaration of Easement
Page 3 of 7

EXHIBIT #20

4 8/8

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

On this 20th day of May 2005, before me, the undersigned, a notary public in and for the State of Washington, duly commissioned and sworn, personally appeared PATRICIA JERKOVICH, the Personal Representative for the ESTATE OF NICK JERKOVICH, to me known to be the individual that executed the foregoing instrument, and acknowledged that she signed the same as her free and voluntary act and deed for the uses and purposes therein mentioned.

SUBSCRIBED AND SWORN to before me this 20th day of May, 2005.



[Signature]

[Notary Signature]

MARK R. ROBERTS

[Type or Print Name of Notary]

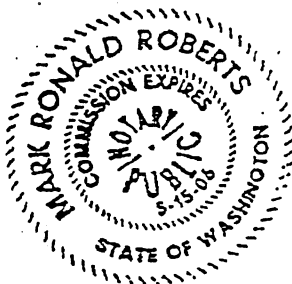
NOTARY PUBLIC in and for the State of WA.

My commission expires: 5/15/06

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

On this 20th day of May 2005, before me, the undersigned, a notary public in and for the State of Washington, duly commissioned and sworn, personally appeared NICKOLAS JERKOVICH, JR., to me known to be the individual that executed the foregoing instrument, and acknowledged that he signed the same as his free and voluntary act and deed for the uses and purposes therein mentioned.

SUBSCRIBED AND SWORN to before me this 20th day of May, 2005.



[Signature]

[Notary Signature]

MARK R. ROBERTS

[Type or Print Name of Notary]

NOTARY PUBLIC in and for the State of WA.

My commission expires: 5/15/06

Declaration of Easement

Page 4 of 7

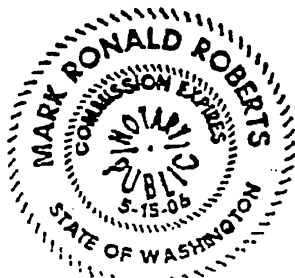
EXHIBIT #20

5/8

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

On this 20th day of May 2005, before me, the undersigned, a notary public in and for the State of Washington, duly commissioned and sworn, personally appeared JOHN JERKOVICH, to me known to be the individual that executed the foregoing instrument, and acknowledged that he signed the same as his free and voluntary act and deed for the uses and purposes therein mentioned.

SUBSCRIBED AND SWORN to before me this 20th day of May, 2005.



[Signature]

[Notary Signature]

MARK R. ROBERTS

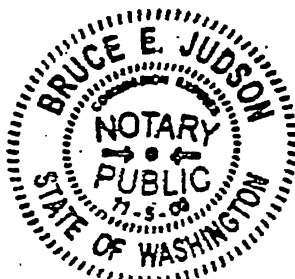
[Type or Print Name of Notary]

NOTARY PUBLIC in and for the State of WA.
My commission expires: 5/15/06

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

On this 20th day of May 2005, before me, the undersigned, a notary public in and for the State of Washington, duly commissioned and sworn, personally appeared MARY ELLEN J. HANSON to me known to be the individual that executed the foregoing instrument, and acknowledged that she signed the same as her free and voluntary act and deed for the uses and purposes therein mentioned.

SUBSCRIBED AND SWORN to before me this 20th day of May, 2005.



[Signature]

[Notary Signature]

Bruce E. Judson

[Type or Print Name of Notary]

NOTARY PUBLIC in and for the State of WA.
My commission expires: 11/05/06

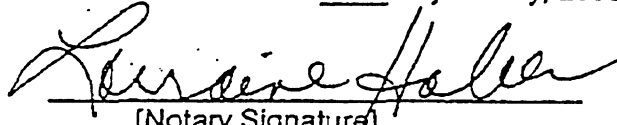
Declaration of Easement
Page 5 of 7

EXHIBIT #20

STATE OF CALIFORNIA)
COUNTY OF Los Angeles) ss.

On this 23rd day of May 2005, before me, the undersigned, a notary public in and for the State of Washington, duly commissioned and sworn, personally appeared ELVY JERKOVICH, to me known to be the individual that executed the foregoing instrument, and acknowledged that she signed the same as her free and voluntary act and deed for the uses and purposes therein mentioned.

SUBSCRIBED AND SWORN to before me this 23rd day of May, 2005.


[Notary Signature]
Lorraine Haber

[Type or Print Name of Notary]
NOTARY PUBLIC in and for the State of CA.
My commission expires: 11-21-05

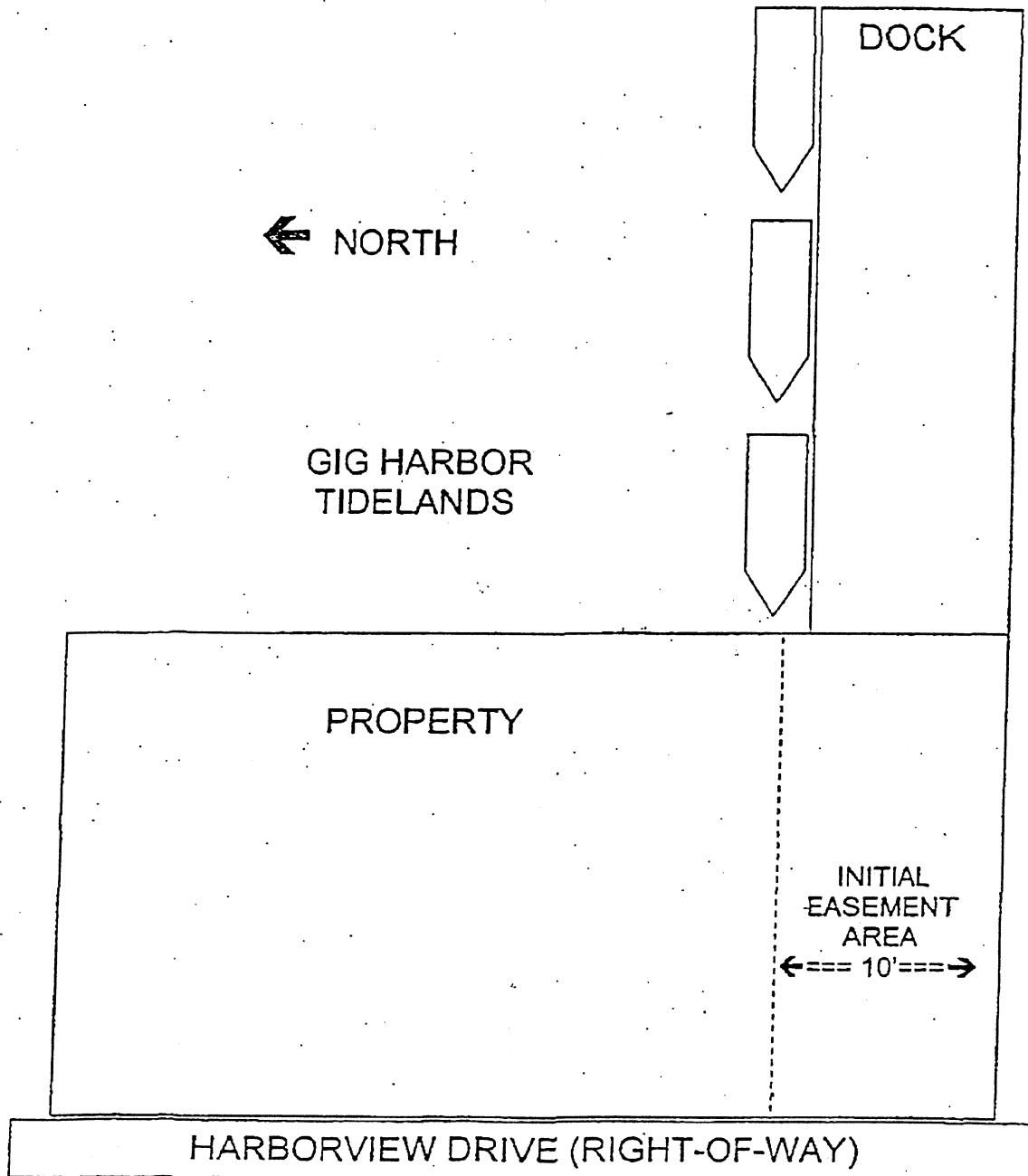


Declaration of Easement
Page 6 of 7

EXHIBIT #20

EXHIBIT A

DEPICTION OF PROPERTY, RIGHT-OF-WAY AND DOCK
(NOT TO SCALE)



Declaration of Easement
Page 7 of 7

EXHIBIT #20

1309459
MAY 24 2005
CHICAGO TITLE

200505240605 6 PGS
05-24-2005 11:48am \$24.00
PIERCE COUNTY, WASHINGTON

WHEN RECORDED RETURN TO
RAINIER YACHT HARBOR LLC
P.O. BOX 875
TACOMA, WASHINGTON 98401



CHICAGO TITLE INSURANCE COMPANY

STATUTORY WARRANTY DEED

4309459

Dated: MAY 13, 2005

THE GRANTOR

PATRICIA M. JERKOVICH, PERSONAL REPRESENTATIVE OF THE ESTATE OF NICHOLAS JOHN JERKOVICH,
DECEASED; NICHOLAS JERKOVICH, JR.; JOHN JERKOVICH; MARY ELLEN J. HANSON AND ELVY
JERKOVICH

for and in consideration of
TEN DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATION

in hand paid, conveys and warrants to
RAINIER YACHT HARBOR LLC A WASHINGTON LIMITED LIABILITY COMPANY

the following described real estate situated in the County of PIERCE State of Washington:
Tax Account Number(s): 597000-024-1, -024-2

LOT 5, BLOCK 3, TOWN OF MILLVILLE, PIERCE COUNTY, W.T., ACCORDING TO
PLAT RECORDED IN BOOK 2 OF PLATS, PAGE 23, RECORDS OF PIERCE COUNTY
AUDITOR.

TOGETHER WITH SECOND CLASS TIDELANDS ABUTTING THEREON TO MEAN LOW TIDE.

SUBJECT TO EXCEPTIONS AND RESERVATIONS CONTAINED IN DEED FROM THE STATE
OF WASHINGTON.

SUBJECT TO QUESTION OF LOCATION OF LATERAL BOUNDARIES OF SAID SECOND
CLASS TIDELANDS OR SHORELANDS.

SUBJECT TO RIGHT OF THE STATE OF WASHINGTON IN AND TO THAT PORTION, IF
ANY, OF THE PROPERTY HEREIN DESCRIBED WHICH LIES BELOW THE LINE OF
ORDINARY HIGH WATER OF GIG HARBOR.

SEE ATTACHED DESCRIPTION.

Patricia M. Jerkovich
PATRICIA M. JERKOVICH, PERSONAL
REPRESENTATIVE

Nicholas Jerkovich Jr.
NICHOLAS JERKOVICH, JR.

John Jerkovich
JOHN JERKOVICH

Mary Ellen J. Hanson
Now *Mary Ellen J. Gilman*
MARY ELLEN J. HANSON

4084086 2 PGS

05-24-2005 11:45am EA CLARK1
EXCISE COLLECTED: \$8,900.00
PAT MCCARTHY, AUDITOR
PIERCE COUNTY, WASHINGTON

AFF. FEE: \$0.00

EXHIBIT # 21

HEX EXHIBIT# 21
APPEAL NOS. 05-1097, 05-1143, 05-1144

WHEN RECORDED RETURN TO
RAINIER YACHT HARBOR LLC
P.O. BOX 875
TACOMA, WASHINGTON 98401



CHICAGO TITLE INSURANCE COMPANY

STATUTORY WARRANTY DEED

4309459

Dated: MAY 13, 2005

THE GRANTOR

PATRICIA M. JERKOVICH, PERSONAL REPRESENTATIVE OF THE ESTATE OF NICKOLAS JOHN JERKOVICH,
DECEASED; NICHOLAS JERKOVICH, JR.; JOHN JERKOVICH; MARY ELLEN J. HANSON AND ELVY
JERKOVICH

for and in consideration of
TEN DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATION

in hand paid, conveys and warrants to
RAINIER YACHT HARBOR LLC, A WASHINGTON LIMITED LIABILITY COMPANY

the following described real estate situated in the County of PIERCE State of Washington:

Tax Account Number(s): 597000-024-1, -024-2

LOT 5, BLOCK 3, TOWN OF MILLVILLE, PIERCE COUNTY, W.T., ACCORDING TO
PLAT RECORDED IN BOOK 2 OF PLATS, PAGE 23, RECORDS OF PIERCE COUNTY
AUDITOR.

TOGETHER WITH SECOND CLASS TIDELANDS ABUTTING THEREON TO MEAN LOW TIDE.

SUBJECT TO EXCEPTIONS AND RESERVATIONS CONTAINED IN DEED FROM THE STATE
OF WASHINGTON.

SUBJECT TO QUESTION OF LOCATION OF LATERAL BOUNDARIES OF SAID SECOND
CLASS TIDELANDS OR SHORELANDS.

SUBJECT TO RIGHT OF THE STATE OF WASHINGTON IN AND TO THAT PORTION, IF
ANY, OF THE PROPERTY HEREIN DESCRIBED WHICH LIES BELOW THE LINE OF
ORDINARY HIGH WATER OF GIG HARBOR.

SEE ATTACHED DESCRIPTION

PATRICIA M. JERKOVICH, PERSONAL
REPRESENTATIVE

NICHOLAS JERKOVICH, JR.

JOHN JERKOVICH

ELVY JERKOVICH

MARY ELLEN J. HANSON

SWD/RDA/SER

EXHIBIT #21

2/6

CHICAGO TITLE INSURANCE COMPANY

Escrow No.: 4309459

EXHIBIT A

Title No.: 4309459

SUBJECT TO ANY PROHIBITION OR LIMITATION OF USE, OCCUPANCY OR IMPROVEMENT
OF THE LAND RESULTING FROM THE RIGHTS OF THE PUBLIC OR RIPARIAN OWNERS TO
USE ANY PORTION WHICH IS NOW OF HAS BEEN FORMERLY COVERED BY WATER.

SUBJECT TO PARAMOUNT RIGHTS AND EASEMENTS IN FAVOR OF THE UNITED STATES FOR
COMMERCE, NAVIGATION, FISHERIES AND THE PRODUCTION OF POWER.

SUBJECT TO DECLARATION OF EASEMENT AND THE TERMS AND CONDITIONS THEREOF
DATED MAY 20, 2005, AND RECORDED MAY 24, 2005 UNDER AUDITOR'S FILE NO.

200505240604

ACCEPTED AND APPROVED:

RAINIER YACHT HARBOR LLC

BY: Bruce Steel
BRUCE STEEL, MANAGING MEMBER

escex/rda/0859

EXHIBIT #21

STATE OF WASHINGTON
COUNTY OF PIERCE

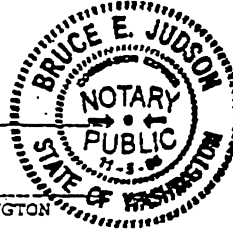
SS

I CERTIFY THAT I KNOW OR HAVE SATISFACTORY EVIDENCE THAT PATRICIA M. JERKOVICH IS THE PERSON WHO APPEARED BEFORE ME, AND SAID PERSON ACKNOWLEDGED THAT SHE SIGNED THIS INSTRUMENT, ON OATH STATED THAT SHE WAS AUTHORIZED TO EXECUTE THE INSTRUMENT AND ACKNOWLEDGED IT AS PERSONAL REPRESENTATIVE OF THE ESTATE OF NICKOLAS JOHN JERKOVICH TO BE THE FREE AND VOLUNTARY ACT OF SUCH PARTY FOR THE USES AND PURPOSES MENTIONED IN THE INSTRUMENT.

DATE: MAY 23, 2005

NOTARY SIGNATURE

PRINTED NAME: Bruce E. Judson
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON
RESIDING AT Steubacon
MY APPOINTMENT EXPIRES 11-5-06



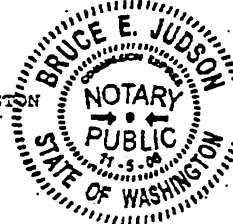
STATE OF WASHINGTON
COUNTY OF PIERCE

SS

ON THIS 23rd DAY OF MAY 2005 BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, DULY COMMISSIONED AND SWORN, PERSONALLY APPEARED NICHOLAS JERKOVICH, JR. KNOWN TO ME TO BE THE INDIVIDUAL(S) DESCRIBED IN AND WHO EXECUTED THE WITHIN INSTRUMENT AND ACKNOWLEDGED THAT HE SIGNED AND SEALED THE SAME AS HIS FREE AND VOLUNTARY ACT AND DEED, FOR THE USES AND PURPOSES HEREIN MENTIONED.

NOTARY SIGNATURE

PRINTED NAME: Bruce E. Judson
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON
RESIDING AT Steubacon
MY COMMISSION EXPIRES ON 11-5-06



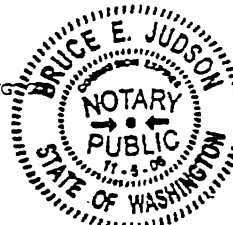
STATE OF WASHINGTON
COUNTY OF PIERCE

SS

ON THIS 19th DAY OF MAY 2005 BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, DULY COMMISSIONED AND SWORN, PERSONALLY APPEARED JOHN JERKOVICH KNOWN TO ME TO BE THE INDIVIDUAL(S) DESCRIBED IN AND WHO EXECUTED THE WITHIN INSTRUMENT AND ACKNOWLEDGED THAT HE SIGNED AND SEALED THE SAME AS HIS FREE AND VOLUNTARY ACT AND DEED, FOR THE USES AND PURPOSES HEREIN MENTIONED.

NOTARY SIGNATURE

PRINTED NAME: Bruce E. Judson
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON
RESIDING AT Steubacon
MY COMMISSION EXPIRES ON 11-5-06



STATE OF WASHINGTON
COUNTY OF PIERCE

SS

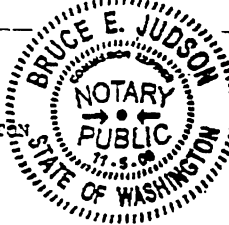
ON THIS 19th DAY OF MAY 2005 BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, DULY COMMISSIONED AND SWORN, PERSONALLY APPEARED JOHN JERKOVICH KNOWN TO ME TO BE THE INDIVIDUAL(S) DESCRIBED IN AND WHO EXECUTED THE WITHIN INSTRUMENT AND ACKNOWLEDGED THAT HE SIGNED AND SEALED THE SAME AS HIS FREE AND VOLUNTARY ACT AND DEED, FOR THE USES AND PURPOSES HEREIN MENTIONED.

EXHIBIT #2

4/6

SWORN, PERSONALLY APPEARED MARY ELLEN J. HANSON KNOWN TO ME TO BE THE INDIVIDUAL(S) DESCRIBED IN AND WHO EXECUTED THE WITHIN INSTRUMENT AND ACKNOWLEDGED THAT SHE SIGNED AND SEALED THE SAME AS HER FREE AND VOLUNTARY ACT AND DEED, FOR THE USES AND PURPOSES HEREIN MENTIONED.

NOTARY SIGNATURE: [Signature]
 PRINTED NAME: Bruce E. Judson
 NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON
 RESIDING AT Stevenson
 MY COMMISSION EXPIRES ON 11-05-06



STATE OF CALIFORNIA
 COUNTY OF _____

SS

ON THIS _____ DAY OF MAY 2005 BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR THE STATE OF CALIFORNIA, DULY COMMISSIONED AND SWORN, PERSONALLY APPEARED ELVY JERKOVICH KNOWN TO ME TO BE THE INDIVIDUAL(S) DESCRIBED IN AND WHO EXECUTED THE WITHIN INSTRUMENT AND ACKNOWLEDGED THAT SHE SIGNED AND SEALED THE SAME AS HER FREE AND VOLUNTARY ACT AND DEED, FOR THE USES AND PURPOSES HEREIN MENTIONED.

NOTARY SIGNATURE
 PRINTED NAME: _____
 NOTARY PUBLIC IN AND FOR THE STATE OF CALIFORNIA
 RESIDING AT _____
 MY COMMISSION EXPIRES ON _____

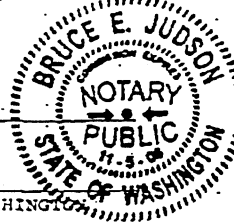
STATE OF WASHINGTON
 COUNTY OF PIERCE

SS

I CERTIFY THAT I KNOW OR HAVE SATISFACTORY EVIDENCE THAT BRUCE STEEL IS THE PERSON WHO APPEARED BEFORE ME, AND SAID PERSON ACKNOWLEDGED THAT HE SIGNED THIS INSTRUMENT, ON OATH STATED THAT HE WAS AUTHORIZED TO EXECUTE THE INSTRUMENT AND ACKNOWLEDGED IT AS MANAGER OF RAINIER YACHT HARBOR LLC TO BE THE FREE AND VOLUNTARY ACT OF SUCH PARTY FOR THE USES AND PURPOSES MENTIONED IN THE INSTRUMENT.

DATED: MAY 23, 2005

NOTARY SIGNATURE: [Signature]
 PRINTED NAME: Bruce E. Judson
 NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON
 RESIDING AT Stevenson
 MY APPOINTMENT EXPIRES 11-05-06



wsn0001/014/5-9-05

EXHIBIT #21

5/6

SWORN, PERSONALLY APPEARED MARY ELLEN J. HANSON KNOWN TO ME TO BE THE INDIVIDUAL(S) DESCRIBED IN AND WHO EXECUTED THE WITHIN INSTRUMENT AND ACKNOWLEDGED THAT SHE SIGNED AND SEALED THE SAME AS HER FREE AND VOLUNTARY ACT AND DEED, FOR THE USES AND PURPOSES HEREIN MENTIONED.

NOTARY SIGNATURE _____

PRINTED NAME: _____

NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON

RESIDING AT _____

MY COMMISSION EXPIRES ON _____

STATE OF CALIFORNIA

COUNTY OF Los Angeles

SS

ON THIS 19th DAY OF MAY 2005 BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR THE STATE OF CALIFORNIA, DULY COMMISSIONED AND SWORN, PERSONALLY APPEARED ELVY JERKOVICH KNOWN TO ME TO BE THE INDIVIDUAL(S) DESCRIBED IN AND WHO EXECUTED THE WITHIN INSTRUMENT AND ACKNOWLEDGED THAT SHE SIGNED AND SEALED THE SAME AS HER FREE AND VOLUNTARY ACT AND DEED, FOR THE USES AND PURPOSES HEREIN MENTIONED.

NOTARY SIGNATURE Lorraine Haber

PRINTED NAME: LORRAINE HABER

NOTARY PUBLIC IN AND FOR THE STATE OF CALIFORNIA

RESIDING AT 28901 S. Western Ave., #115 R.P.D., CA

MY COMMISSION EXPIRES ON 11-21-05



Exhibit #21

6/6

APPLICATION FOR AUTHORIZATION TO USE STATE-OWNED AQUATIC LANDS

I. SUBMISSION OF APPLICATION

NO WORK CAN BE STARTED ON THE PROJECT AREA UNTIL A USE AUTHORIZATION HAS BEEN GRANTED BY THE DEPARTMENT OF NATURAL RESOURCES

Enclose a \$25.00 non-refundable application processing fee with the application (this fee is not required for local, state, and other government agencies). This application form will be reviewed by the Department of Natural Resources upon receipt at the address given below. Applicants will be notified in writing if the application will be accepted for further review. However, this application may be rejected at any time before signed execution of a use authorization.

Please send the completed application form to your region land manager at:

Department of Natural Resources
Shoreline District Aquatics Region
950 Farman Avenue North
Enumclaw, WA 98022-9282

II. APPLICANT INFORMATION

Date of Application: 11/10/04

Authorization to be Issued To (how name is to appear in the lease document): RAINIER YACHT HARBOR, LLC

Address: P.O. Box 875

City: TACOMA State: WA Zip Code: 98401

Telephone Number: 253-759-2287 FAX Number: 253-759-2342

Applicant's Representative: BRUCE R STEEL

Relationship to Applicant: MANAGING MEMBER

Address: P.O. Box 875

City: TACOMA State: WA Zip Code: 98401

Telephone Number: 253-759-2287 FAX Number: 253-759-2342

If Property will be used for business purposes, Applicants' Washington Department of Revenue Tax *Registration Number (Unified Business Identifier) is Required: 601 435 193

FOR OFFICIAL USE ONLY

Land Manager: Type: (20, 21, 22, 23, 31, 51)

Land Manager: ☒ New Application ☐ Renewal Application

Land Manager: Initials WW Aquatic Program Manager Initials RP

Support: Application Fee Received 11/12/04 Date

Land Records: New Application Number 22-077053

Land Records: Trust 25 County 21 AQR Plate No. TF27-133

Note 73

Long Form Application

EXHIBIT # 25

HEX EXHIBIT# 25
APPEAL NOS. 05-1097, 05-1143, 05-1144

1 Which of the following applies to this application? (Check One and Attach written authority to: (laws, power of attorney, etc):
 2 Corporation _____ (State of Registration): _____ (Government Agency)
 General Partnership _____ Limited Partnership _____ (State of Registration): _____
 Sole Proprietorship _____ Marital Community _____ (Spouse): _____
 5 Other LLC (Please Explain): LIMITED LIABILITY COMPANY

6 Has the site use been authorized before or is it currently under lease: Yes (#) _____ No ☒ Don't Know ☒

7 III. LOCATION

8 The Body of Water on which the state property is located: GIG HARBOR BAY
 9 County in which the state property is located: PIERCE
 10 Government Lot 7, Section 05, Township 21, Range 02 E/W

11 A LEGAL PROPERTY SURVEY INCLUDING THE LEGAL DESCRIPTION AND OTHER INFORMATION ABOUT THE
 12 PROPERTY IS REQUIRED TO OBTAIN A USE AUTHORIZATION. THE SURVEY REQUIREMENTS ARE DESCRIBED IN
 13 SECTION VII, PROPERTY SURVEY OF THIS FORM. THE SURVEY PLAT WILL BE ATTACHED TO THE LEASE AS
 14 EXHIBIT A. (DO NOT HAVE THIS SURVEY CONDUCTED UNTIL YOU HAVE BEEN NOTIFIED IN WRITING THAT
 15 THE APPLICATION HAS BEEN ACCEPTED FOR PROCESSING.)

16 Physical description of Project Area (For example, Marsh, Tidelat adjacent to the Chehalis River, etc.): UNDER WATER
 17 AREA FROM PROPERTY LINE TO OUTER HARBOR LINE

19 Name of Owner(s) of Uplands, Shorelands, and/or Tidelands shoreward and adjacent to the Property:
 20 Name: RAINIER YACHT HARBOR, LLC (CONTRACT PURCHASER)
 21 Address: P.O. Box 875
 22
 23 City: TACOMA State: WA Zip Code: 98401 Phone Number: 253-759-2287

24 EXCEPT FOR PROPERTY LOCATED WITHIN ESTABLISHED HARBOR AREAS, PROOF OF OWNERSHIP, OR
 25 AUTHORIZATION TO USE THE ADJACENT TIDELAND, SHORELAND, OR UPLAND PROPERTY MAY BE REQUIRED.
 26 IF THE APPLICANT IS THE OWNER OF THE ADJACENT LAND, ATTACH A COPY OF THE DEED OR CONTRACT OF
 27 SALE.

28 County Parcel No(s), for adjacent properties, upland, and/or adjacent tideland properties: 597 0000 250

29 IV. USE OF PROPERTY

30 1. Describe, in detail, the proposed use of the Property: MARINA WITH APPROXIMATELY
 31 30 SLIPS RANGING FROM 50 FEET TO 70 FEET
 32 2. Is or will the Property be subleased to another party? Yes ☐ No ☒ (If yes, submit a copy of the sublease agreement.)
 33 3. What are the current and past uses of the site? CURRENTLY THE SITE IS VACANT EXCEPT FOR
 34 A DILAPIDATED NET SHED. PREVIOUSLY USED FOR FISHING RELATED ACTIVITY
 35 4. Do you have any knowledge of contamination of the site by toxic or hazardous substances, or of past uses or practices that might
 36 have lead to contamination by such substances? If so, please explain: NO
 37
 38 5. Do you know if any fill material has been placed on the property in question? If yes, please explain: NO
 39

40 V. IMPROVEMENTS

PHYSICAL IMPROVEMENTS ARE STRUCTURES PLACED ON THE LAND THAT CANNOT BE REMOVED WITHOUT DAMAGE TO THE LAND. EXAMPLES OF SUCH STRUCTURES INCLUDE PILINGS, DOLPHINS, PIERS, WHARVES, PILING-SUPPORTED BUILDINGS, STRUCTURES BUILT ON FILL OR CONCRETE FOUNDATIONS, BURIED PIPELINES AND CABLES, AND SUPPORT STRUCTURES FOR BRIDGES.

1. What physical improvements currently exist on the site? (Photos may be required.) AND SMALL PIER UNIMPROVED NET SHEED
2. If there are physical improvements currently on the site; who owns them? UPLAND OWNERS
3. If there are physical improvements currently on the site, describe their condition. POOR
THE NET SHEED WILL BE RESTORED
 Which, if any, of the existing physical improvements will be removed, retrofitted, or reconstructed?
5. PARKING LOT WITH ASSOC DRAINAGE, BATHROOMS, OFFICE, MARIN
6. Has any fill material been placed on the site? If Yes, please describe: NO

VI. LOCAL, STATE, AND FEDERAL REGULATORY PERMITS

COPIES OF ALL GOVERNMENT REGULATORY PERMITS ARE REQUIRED BEFORE ISSUANCE OF A DNR USE AUTHORIZATION. YOUR PROJECT MAY REQUIRE SOME OR ALL OF THESE PERMITS.

Please include the following permit applications, permits, or waivers with the application:

JARPA (Joint Aquatic Resource Permit Application)

This one form is used to apply for all of the following individual permits:

1. Section 10 Permit (Required by the US Army Corps of Engineers for any work in or affecting navigable waters, e.g., floats, docks, piers, dredging, pilings, bridges, overhead power lines.)
2. Shoreline Substantial Development, Conditional Use, Variance Permit or Exemption (Issued by Local Government, and is required for work or activity in the 100 year floodplain, or within 200 feet of the Ordinary High Water mark of certain waters; and which included any one of the following: dumping, drilling, dredging, filling, placement or alteration of structures or any activity which substantially interferes with normal public use of the waters.)
3. Hydraulic Project Approval (Required by the Department of Fish and Wildlife if the project includes work that will use, divert, obstruct, or change the natural flow or bed of any fresh or salt water of the state.)
4. Section 404 Permit (Required by the US Army Corps of Engineers if your project will discharge or excavate any dredged or fill material waterward of the Ordinary High Water mark or the Mean Higher High Tide Line in tidal areas.)
5. Section 401 Water Quality Certification (Required by the Department of Ecology if a Section 404 permit is required.)

NPDES (National Pollutant Discharge Elimination System Permit)

Required by the Department of Ecology under delegated authority from the Federal Environmental Protection Agency for projects that include the discharge of fluid on or into surface water.

SEPA (State Environmental Policy Act) Checklist and Environmental Assessments

When you submit a permit application to any agency, if the project is not exempt, the lead agency will ask you to fill out an environmental checklist. Based on checklist answers and the reviewers knowledge of the project site, agency personnel will determine the types of impacts the project may have on the environment. The agency assessments may be the following forms: Determination of Nonsignificance, Determination of Significance, scoping documents, draft or final Environmental Impact Statements (EIS) or others prepared for the purpose of compliance.

Describe any habitat mitigation required by any of the permitting agencies identified above and identify where such mitigation is proposed to occur: DEVELOPMENT PERMIT HAS NOT BEEN APPLIED FOR WITH GIB HARBOR OR OTHER AGENCIES SUBJECT TO SECURING DNR LEASE.

VII. PROPERTY SURVEY

STATE OF WASHINGTON DEPARTMENT OF NATURAL RESOURCES
 REQUIREMENTS FOR RECORDS OF SURVEY FOR LEASES AND EASEMENTS

Records of Survey are required for easements and leases granted by the department for:

- | | |
|---|---|
| \$ County roads | \$ Drainage or irrigation easements |
| \$ Highways | \$ Railroads |
| \$ Easements across high value lands | \$ Aquatic land uses: exemptions are provided |
| \$ Easements across transition lands | for recreational docks and mooring buoys per |
| \$ Utilities | RCW 79.90.105 and for those permits issued |
| \$ Upland leases | as a Right of Entry |
| \$ Communication sites | |
| \$ Other grants as determined by the department based upon site specific considerations | |

The applicant is responsible for:

- \$ All costs and work associated with creating, submitting, revising and recording the Record of Survey.
- \$ Submitting a preliminary Record of Survey for review and approval by the department prior to approval of the agreement.
- \$ Recording the final Record of Survey with the county auditor's office.
- \$ Submitting a digital copy in AutoCAD.DWG or DXF (drawing exchange format) of the final survey.
- \$ Submitting two full size copies and one 8 1/2 X 11" copy and of the recorded survey including the auditor's recording information to the department.

A Record of Survey must:

1. Be produced by a licensed surveyor.
2. Meet the requirements of Title 58 RCW and Chapter 332-130 WAC.
3. Include the name of the applicant, the purpose of the easement or lease and the DNR easement or lease number.
4. Clearly show easement or lease boundaries with distances and directions of all boundary lines.
5. Show the easement or lease area to an accuracy of (\pm) 0.5% of the total area or (\pm) 10 square feet, whichever is greater.
6. (Not required for aquatic lands lease across the bed of Puget Sound or the Pacific Ocean) Indicate the acreage encompassed by the lease or easement within each quarter-quarter section or government lot.
7. Show distances and directions from two or more controlling corners of a recorded subdivision, recorded survey or government survey (GLO) corners.
8. Be related by meridian and coordinate to the Washington Coordinate System NAD'83(1991) by closed ties to NGS Control monuments, or the extension thereof. The designation of the control stations used shall appear on the plat.
9. Include a narrative legal description describing the servient estate (grantor's parcel) on the Record of Survey.
10. Show a detailed plan of improvements to be constructed or already existing on the easement or lease area. All improvements must be shown in sufficient detail to determine what they are used for and to ensure they are entirely within the easement area.
11. Show the location of any proposed utility.
12. (linear lease or easement) Show the lineal footage along the centerline.
13. (linear lease or easement) Show the complete alignment information and width including any necessary curve data.
14. (Easements or leases crossing a section line or state ownership boundary, not required for aquatic lands lease across the bed of Puget Sound or the Pacific Ocean) Provide ties to the centerline of an easement along the section or subdivision line from the nearest appropriate Public Land Survey System (PLSS) section corner, quarter section or subdivision corner, where the easement

15. (Easements or leases falling entirely within one section and not crossing a section line or state ownership boundary) Provide ties from both end points of the linear easement to PLSS corners or other subdivision corners shall be provided.
16. (A lease which encroaches on a previously leased site) Show the boundary for the senior lease in the vicinity of the proposed lease shall also be shown, together with ties between the two leases sufficient to determine the full extent of the encroachments.

Additional Requirements for Communication Site Leases

17. Show ties to the corners of previously monumented communication sites adjacent to, or in the immediate vicinity of the proposed communication site.
18. Show access to the site.
19. Mark the corners of the communication site, as described and granted, with substantial permanent magnetically locatable monuments. The monuments shall be in place and obviously marked on the ground after the construction of installations and improvements.
20. Show the center of any communication site tower by Washington Plane Coordinates, NAD83 (1991), or latitude and longitude having an accuracy of and showing 3 decimals of a second.
21. On all communication sites where towers or beam paths are shown, an elevation is required at the base of the tower.
22. Show the tower height, and the height of the antenna or microwave dish and any beam path used shall have the diameter and tilt thereof shown.
23. The elevation shall be derived from an established benchmark in the vicinity of the site, or an elevation designated by the Department of Natural Resources.

Additional Requirements for Aquatic Land Uses

24. The lease of aquatic lands is often subject to preference rights. Applicants and surveyors should carefully determine the direction, and show details of the proration of coves and irregular shoreline.
25. (lease sites which contain existing or proposed structures and improvements that are classified as a non water-dependent or a water oriented use as described within RCW 79.90.465 and WAC 332-30-106) Provide the square footage of each structure and improvement.

Additional Requirements for Aquatic Land Uses (cont.):

26. Where applicable, the survey of aquatic lands must show the location of the following lines for:
 - a. Tidal areas—Government meander line, the original and current locations of line of mean high tide, line of mean low tide, and line of extreme low tide. The survey must include the name of tidal bench mark(s) used or describe the alternate method employed for determining a Tidal Datum. Lease areas which contain tidelands and bedlands at a minimum must show the location of the line of extreme low tide crossing the lease area. Lease areas containing bedlands exclusively may be required to show the relationship to the line of extreme low tide and the -18 foot contour line only.
 - b. Lakes—Government meander line, line of ordinary high water (original ordinary high water if the lake has experienced artificial raising or lowering of the water level), and line of ordinary low water (include source of data) and line of navigability if established.
 - c. Rivers - Line of ordinary high water and line of ordinary low water (include source of data) and line of navigability if established.
 - d. Lots and blocks of platted tide lands or shore lands, inner and outer harbor lines, waterway lines, street boundaries, any local construction limit lines, any dredge or fill areas, and easements of record within the lease site.

e. All lines must be shown in sufficient detail to compute and show the area of each of State-owned bedlands, tidelands, shorelands, harbor areas, and waters included within the proposed lease area. 3242 5/26/2006 10212

Include any other data necessary for the complete understanding of the information shown on the survey. If, in the opinion of the department, such information is lacking, the survey may be rejected.

Record of Survey Revisions:

27. Any differences between the as-built road and the regulation plat must be reflected in a revised Record of Survey and recorded with the county by the applicant.
28. When any portion of the completed improvements are located outside of the granted lease site, the as-built locations must be reflected in a revised Record of Survey and legal description. In this instance, a new application for an amended lease site may be required if the as-built location creates adverse impacts. In the case of linear leases across the bed lands of the sound or the ocean, an as-built Record of Survey and a revised legal description of the linear lease must be provided.

Survey Requirements updated July 2002.

All answers and statements are true and correct to the best of my knowledge.

Applicant RAINIER YACHT HARBOR, LLC
(Please Print)

Signed Brian R. [Signature]
(Applicant or Authorized Signature)

Title MANAGING MEMBER

Company RAINIER YACHT HARBOR, LLC

Date 11/10/04

For additional information contact one of the following region offices:

Central Region
1405 Rush Rd
Chehalis, WA 98532-8763
360-748-2383
TTY: 360-740-6841

Northeast Region
P.O. Box 190
225 S Silke Rd
Colville, WA 99114-0190
360-684-7474
TTY: 509-684-7474

Olympic Region
411 Tillicum Ln
Forks, WA 98331-9797
360-374-6131
TTY: 360-374-2819

Southwest Region
P.O. Box 280
601 Bond Rd
Castle Rock, WA 98611-0280
360-577-2025
TTY: 360-577-2025

Northwest Region
919 N Township St
Sedro-Woolley, WA 98284-9333
360-856-3500
TTY: 360-856-1371

South Puget Sound Region
950 Farman Ave N
Enumclaw, WA 98022-9282
360-825-1631
TTY: 360-825-6381

Southeast Region
713 Bowers Rd
Ellensburg, WA 98926-9341
509-925-8510
TTY: 509-925-8527

3242 5/26/2006 10213



Norpoint Communities

A Subsidiary of Matia Investment Fund, Inc.

July 11, 2005

RECEIVED
CITY OF GIG HARBOR
JUL 11 2005
COMMUNITY
DEVELOPMENT

Rob White
Perry Fegley
City of Gig Harbor
3510 Grandview Street
Gig Harbor, Wa. 98335

Subject: Burton Residence

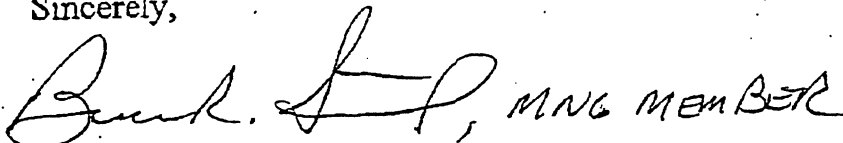
Dear Mr. White and Mr. Fegley:

Rainier Yacht Harbor, LLC, is submitting permits for two single family homes.

I hereby request an exemption from the substantial shoreline developmental permits in accordance with Section 3.15 of the City of Gig Harbor Shoreline Master Program.

If any additional information is needed please don't hesitate to call me at 253-759-2287.

Sincerely,

 MNG MEMBER

Bruce R. Steel

EXHIBIT # 49

1/6

HEX EXHIBIT#

49

RECEIVED

3242 5/26/2006 10341

<p>CITY OF GIG HARBOR</p> <p>JUL 11 2005</p> <p>SHORELINE PERMIT(S) APPLICATION</p> <p>COMMUNITY DEVELOPMENT</p>		<p>CITY USE ONLY</p> <p>Case Number <u>EXP 05-837</u></p> <p>Date Received <u>7/11/05</u></p> <p>By <u>CR</u> @ <u>15.00</u></p> <p>Receipt # _____ By _____</p>	
<p>Please check the permit(s) you wish to apply for:</p> <p><input type="checkbox"/> Shoreline Management Substantial Development</p> <p><input checked="" type="checkbox"/> <u>Exemption Request</u></p> <p><input type="checkbox"/> Shoreline Conditional Use <input type="checkbox"/> Shoreline Variance</p>			
<p>To the Applicant: This is an application for a Shoreline Management Development Permit and is authorized by the Shoreline Management Act of 1971. It is suggested that you check with the appropriate local, state or federal officials to determine whether your project falls within any other Permit system, since a Permit under the Shoreline Management Act will not excuse the applicant from compliance with any other local, state or federal ordinances, regulations or statutes applicable to the project.</p>			
<p>Name of project/proposal _____</p>			

<p>Applicant</p> <p><u>RAINIER YACHT HARBOR, LLC</u></p> <p>(name)</p> <p><u>P.O. Box 875</u> <u>253-759-2287</u></p> <p>(street address) (telephone)</p> <p><u>TACOMA WA 98401</u></p> <p>(city & state) (zip)</p>		<p>Property Location</p> <p>Property Address <u>3525 HARBORVIEW</u></p> <p>Section _____ Township _____ Range _____</p> <p>Assessor's Tax Parcel Number _____</p>	
<p>Owner</p> <p><u>SAME</u></p> <p>(name)</p> <p>_____</p> <p>(street address) (telephone)</p> <p>_____</p> <p>(city & state) (zip)</p>		<p>Full Legal Description (attach separate sheet if too long)</p> <p><u>LOTS 5, 6, 7 OF</u></p> <p><u>TOWN OF MILLVILLE</u></p> <p><u>ACCORDING TO PLAT RECORDED</u></p> <p><u>IN BOOK 2 OF PLATS AT</u></p> <p><u>PAGE 23, IN PIERCE COUNTY,</u></p> <p><u>WASHINGTON.</u></p>	
<p>I (We)</p> <p><u>RAINIER YACHT HARBOR, LLC</u></p> <p>(name)</p> <p><u>Bruce L P</u> <u>7/11/05</u></p> <p>(signature) (date)</p> <p><u>MNC MEMBER</u></p> <p>(signature) (date)</p>		<p>Total Square Footage of the Site</p> <p>Uplands: <u>15,638</u></p> <p>Private Tidelands: _____</p>	
<p>do hereby affirm and certify, under penalty of perjury, that I am one (or more) of the owners or owner under contract of the herein described property and that the foregoing statements and answers are in all respects true and correct on my information and belief as to those matters, I believe it to be true.</p>			
<p>Property Information</p>			
<p>Zoning Designation: <u>WM</u></p>		<p>Slopes exceeding 15%? <u>0</u></p>	
<p>Shoreline Master Program Designation: <u>URBAN</u></p>			

EX-11817 #49

2/6

Existing land use: Describe (or illustrate separately) existing land use, including location of all existing structures and docks (in feet) from property

lines.

DILAPIDATED NET SHED AND PIER
DILAPIDATED SINGLE FAMILY HOUSE

Summary of Request (list type of uses)

EXEMPTION FOR CONSTRUCTION OF A SINGLE
FAMILY RESIDENCE

APPLICATION REQUIREMENTS FOR SHORELINE PERMIT, CONDITIONAL USE, AND VARIANCE APPLICATIONS

A complete application for a shoreline management substantial development, conditional use or variance permit shall contain, at a minimum, the information described in WAC 173-27-180, which is attached to this application form.

EXHIBIT #49
486

3/6



Norpoint Communities

A Subsidiary of Matia Investment Fund, Inc.

July 11, 2005

Rob White
Perry Fegley
City of Gig Harbor
3510 Grandview Street
Gig Harbor, Wa. 98335

RECEIVED
CITY OF GIG HARBOR
JUL 11 2005
COMMUNITY
DEVELOPMENT

Subject: Steel Residence

Dear Mr. White and Mr. Fegley:

Rainier Yacht Harbor, LLC, is submitting permits for two single family homes.

I hereby request an exemption from the substantial shoreline developmental permits in accordance with Section 3.15 of the City of Gig Harbor Shoreline Master Program.

If any additional information is needed please don't hesitate to call me at 253-759-2287.

Sincerely,

Bruce R. Steel, MNC MEMBER

Bruce R. Steel

EXHIBIT # 49

4/6

RECEIVED

3242 5/26/2006 18343

CITY OF GIG HARBOR
JUL 11 2005
SHORELINE PERMIT(S) APPLICATION
COMMUNITY
DEVELOPMENT

CITY USE ONLY
Case Number EXP 05-836

Date Received 7/11/05

By CR @ 15.00

Receipt # _____ By _____

Please check the permit(s) you wish to apply for:

- ☐ Shoreline Management Substantial Development
Exemption Request
☐ Shoreline Conditional Use ☐ Shoreline Variance

To the Applicant: This is an application for a Shoreline Management Development Permit and is authorized by the Shoreline Management Act of 1971. It is suggested that you check with the appropriate local, state or federal officials to determine whether your project falls within any other Permit system, since a Permit under the Shoreline Management Act will not excuse the applicant from compliance with any other local, state or federal ordinances, regulations or statutes applicable to the project.

Name of project/proposal _____

Applicant

RAINIER YACHT HARBOR, LLC
(name)
P.O. Box 875
(street address) 253-759-2287
(telephone)
TACOMA WA 98401
(city & state) (zip)

Owner SAME

(name)

(street address)

(telephone)

(city & state)

(zip)

I (We)

RAINIER YACHT HARBOR, LLC
(name)
Brian J. P. 7/11/05
(signature) (date)
MNC MEMBER

(signature)

(date)

do hereby affirm and certify, under penalty of perjury, that I am one (or more) of the owners or owner under contract of the herein described property and that the foregoing statements and answers are in all respects true and correct on my information and belief as to those matters, I believe it to be true.

Property Location

Property Address 3553
5518 HARBOURVIEW

Section 05 Township 21 Range 02

Assessor's Tax Parcel Number 5970000250
5970000241

Full Legal Description (attach separate sheet if too long)

LOTS 5, 6, 7 OF TOWN
OF MILLVILLE ACCORDING
TO PLAT RECORDED IN BOOK 2
OF PLATS AT PAGE 23, IN
PIERCE COUNTY, WASHINGTON

Total Square Footage of the Site

Uplands: 1,381,436

Private Tidelands: _____

Total Lineal Feet of Shoreline 112

Property Information

Zoning Designation: WM

Slopes exceeding
15%? 0

Shoreline Master Program Designation: URBAN

Existing land use: Describe (or illustrate separately, existing land use, including location of all existing structures and docks (in feet) from property

lines.

DILAPIDATED NET SHED AND PIER
DILAPIDATED SINGLE FAMILY HOUSE

Summary of Request (list type of uses)

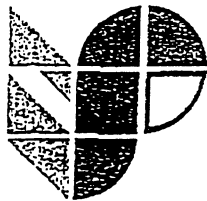
EXEMPTION FOR CONSTRUCTION OF A SINGLE
FAMILY RESIDENCE.

APPLICATION REQUIREMENTS FOR SHORELINE PERMIT, CONDITIONAL USE, AND VARIANCE APPLICATIONS

A complete application for a shoreline management substantial development, conditional use or variance permit shall contain, at a minimum, the information described in WAC 173-27-180, which is attached to this application form..

EXHIBIT # 49

6/6



Norpoint Communities

A Subsidiary of Matia Investment Fund, Inc.

RECEIVED
CITY OF GIG HARBOR
JUL 11 2005
COMMUNITY
DEVELOPMENT

July 11, 2005

Mr. Rob White, Planning Manager
Mr. Perry Fegley, Assistant Building Official
City of Gig Harbor
3510 Grandview Street
Gig Harbor, Washington 98335

Subject: Building Permit Applications for Steel Residence and Burton Residence

Dear Mr. White and Mr. Fegley:

Enclosed herewith are complete building permit applications for the two homes to be constructed in the 3500 block of Harborview Drive. We are also submitting a boundary line adjustment application combining the three Millville lots into two lots, a joint use and maintenance agreement for the two parcels, a comprehensive geotechnical study, a design manual review application in addition to all of the other requirements for a complete application in accordance with the list provided by you.

We have enlisted our land use attorney, Bill Lynn with Gordon Thomas Honeywell to review the application for completeness and to make sure that the application is not subject to additional review requirements, variances or additional applications. His comments are as follows:

1. SEPA.. Single family residences are exempt from SEPA in the City of Gig Harbor.
2. Shoreline Substantial Development Permits. Single family residences on individual lots are exempt in accordance with Section 3.15 of the City of Gig Harbor Shoreline Master Program.
3. Site Plan Review. Single family residences are exempt from the requirement per Section 17.48.050 of the Gig Harbor Municipal Code.
4. Landscape Plans. Single family residences are exempt from the requirement per section 17.78.020 of the Gig Harbor Municipal Code.
5. Design Review. Single family residences are exempt from design review. However, single family residence permit applications for residences located in the historic district are subject to review for compliance with the City Design Manual related to

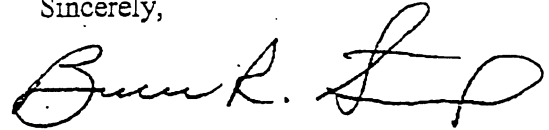
EXHIBIT # 50

HEX EXHIBIT# 50
APPEAL NOS. 05-1097, 05-1143, 05-1144

the Historic District section, Parkways section, Prominent Parcel section and the appropriate height standards section.

If additional information is required, please feel free to call me anytime. You will find that our design team will react immediately to your request for information. Thank you.

Sincerely,



Bruce R. Steel

EXHIBIT #50

2/5

APPLICATION NO.

310 GRADE 10 STREET • GIG HARBOR, WASHINGTON 983 ()
TELEPHONE (253) 851-4278 • FAX (253) 858-6408

PERMIT NO.

9521

APPLICATION AND PERMIT

8805-112

ASSESSOR PARCEL NUMBER 5970000250 5970000241		ZONING WM	BUILDING PERMIT	
T. 21 R. 02 Dia. No.		SQ. FT.	OCC.	TYPE
3525 HARBORVIEW DRIVE		8,022	R-3	VB
LOT NO. 51617 SUBDIVISION TOWN OF MILLVILLE		VALUATION 754,228		
APPLICANT'S NAME RAINIER YACHT HARBOR, LLC		Fireplace / Stove		
OWNER SAME AS APPLICANT		Total Valuation \$		
OWNER'S MAILING ADDRESS P.O. BOX 875 TACOMA, WA 98401		Wash. State Fees / BCC \$		
CONTRACTOR'S NAME OWNER		Basic Fee \$		
CONTRACTOR'S MAILING ADDRESS		Plan Checking Fee \$		
ARCHITECT OR ENGINEER'S NAME SEE ATTACHED CONTACT LIST		Penalty \$		
ARCHITECT OR ENGINEER'S MAILING ADDRESS		Permit Fee \$		
LOAN LENDER <input type="checkbox"/> FIRM HOLDING PAYMENT BOND <input type="checkbox"/>		PLUMBING PERMIT		
NONE		Filing Fee		
MAILING ADDRESS		Each Trap		
WATER SERVED BY CITY OF GIG HARBOR		Water Piping		
<input checked="" type="checkbox"/> WATER AVAILABILITY LETTER ATTACHED		Each Water Heater or Vent		
<input type="checkbox"/> SEPTIC DESIGN APPROVED BY TACOMA / PIERCE COUNTY HEALTH DEPT.		Plan Checking Fee \$		
USE OF STRUCTURE SINGLE FAMILY RESIDENCE		Permit Fee \$		
SPECIFY		MECHANICAL PERMIT		
TYPE OF WORK		Filing Fee		
Addition <input type="checkbox"/> Remodel <input type="checkbox"/> Utilities <input type="checkbox"/> Installation <input type="checkbox"/> Other <input type="checkbox"/>		Heating		
Describe work: CONSTRUCT SINGLE FAMILY RESIDENCE		Cooling		
CONTRACTOR'S REGISTRATION ACT		Hood		
I declare under penalty of perjury (check one):		Ventilation		
<input type="checkbox"/> I am registered under the provisions of Chapter 18.27 RCW and my registration is in full force and effect. Lic. No.		Gas Piping System 1-5 Outlets		
<input checked="" type="checkbox"/> I, as the owner, or my employees with wages as their sole compensation, will do the work, and the structure is not intended or offered for sale.		Plan Checking Fee \$		
I am aware that the State Contractor's Registration Act requires all persons doing any work as contractors to obtain a certificate of registration from the Washington State Department of Labor and Industries.		Permit Fee \$		
I am aware that it is unlawful to do any work as a contractor without a certificate of registration and that a violation of this requirement is a criminal misdemeanor.		GRADING PERMIT		
<input type="checkbox"/> I, as owner, am exclusively contracting with Licensed contractors.		Cut Fill CU. YDS.		
Notice to Applicant: If after making this statement, should you become subject to Chapter 18.27 RCW, you must forthwith comply with such provisions or this permit shall be deemed revoked.		Basic Fee \$		
I certify that I have read this application and state that the above information is correct. I agree to comply with all City Ordinances and State Laws relating to building construction, and hereby authorize representatives of the City of Gig Harbor to enter upon the above-mentioned property for inspection purposes.		Plan Checking Fee \$		
I also agree to save, indemnify, and keep harmless the City of Gig Harbor, against all liabilities, judgements, costs, and expenses which may in any way accrue against said city in consequence of the granting of this permit.		Permit Fee \$		
Signature of applicant: <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Contractor <input type="checkbox"/> Agent		FIRE CODE PERMIT		
Receipt No. 45488 \$3523.30 7/11/2005 PM		Permit Fee \$		
Receipt No.		Inspt. Fee \$		
MANAGING MEMBER Date 7/7/05		Permit Fee \$		
GIG HARBOR BUILDING OFFICIAL		SEPA		
By		Required Not Required <input type="checkbox"/>		
PERMIT EXPIRES Date		DNS EIS <input type="checkbox"/>		
492		Conditions of Approval Yes <input type="checkbox"/> (see attached) No <input type="checkbox"/>		
EXHIBIT #50		Date issued		
		SEPA Fee: \$		
		TOTAL PERMIT FEE \$		
		STAFF COMMENTS:		
		SITE PLAN PW SOP FIRE UTIL PARCEL PO HD ISSUE		
		This permit is hereby issued under the applicable provisions of the Gig Harbor code and/or resolutions to do work indicated above for which fees have been paid.		
		3/5		

City of Gig Harbor
Department of Community Development

3242 5/26/2006 10348

Project Name: Burton SFR Date: 7/11 Permit Number: B005-112
Project Address: 3525 Harborview Dr
Billing Address: _____

Operations and Engineering:	File/Project #	AR/Fee Cd	BARS No.	CR/Code	Amount (\$)
Utility Connection - Water		CNST1	420-000-379-00-00	CNSTA2	
Park Impact Fees		IMPPK	001-000-345-85-00	PRKIMP	
Traffic Impact Fees		IMPTF	101-000-345-84-00	TRNIMP	
School Impact Fees		-	309-000-237-10-00	SCHIMP	
Latecomers Fees - Water		LTCWT	420-000-237-50-00	PYBL9	
Utility Connection - Sewer		CNST2	410-000-379-00-00	CNSTA1	
Encroachment Permit		ENCRO	101-000-322-40-00	ENCRCH	
Construction Inspection Services		INSP1	101-000-343-20-00	INSFEE	2500
Engineering Plan Review		ENGP1	101-000-345-83-00	ENGPLN	
House Stub Inspection Fee		-	402-000-343-20-10	INSFES	
As-Built Plans Fee (Refundable)		CNST2	410-000-379-00-00	CNSTA1	
Latecomers Fees - Sewer		LTCSW	410-000-237-50-00	PYBL7	
Performance Bond - Street (Refundable)		-	101-000-237-11-00	PYBL10	
Stormwater Design Manual, Comp Plan		SALS6	411-000-341-50-00	SALPBST	
Plans & Specs Bid Documents		SALS 2 - 6	XXX-000-341-50-00	SALPB	
Public Works Standards		SALS 2 - 6	XXX-000-341-50-00	SALPB	
Parks Comp Plan		SALS2	001-000-341-50-00	SALPB	
Miscellaneous					
Sub Total:					2500

Planning Department:	File/Project #	AR/Fee Cd	BARS No.	CR/Code	Amount (\$)
Building Permit Fees - Sign Permit		BLDP5	001-000-322-14-00	BPSIGN	
Refundable Performance Bond		-	001-000-237-11-00	PYBL12	
Plan Checking Fees		PCHKG	001-000-345-83-00	INSRVW	
Sales of Publications, copies, maps, etc.		SALS2	001-000-341-50-00	SALEPB	
Sales of Zoning Code		SALZO	001-000-341-51-00	SALZCD	
Zoning & Subdivsn Fees (VAR,CUP,SUB,SEPA)	D2B/Share	PZNG	001-000-345-81-00	ZONSUB	90.00
Reimb - Affidavit of Publication		REIMB1	001-014-558-60-44	REIMBAFF	
Miscellaneous					
Sub Total:					90.00

Building Department:	BP/Fee Code	AR/Fee Cd	BARS No.	CR/Code	Amount (\$)
Permits:					
Building Code Council (BCC)	BCC1	BCC	001-000-213-07-00	PYBL1	
Building Permit Fees - Basic	BLDG1	BLDP1	001-000-322-10-00	BPBSC	
Building Permit Fees - Plan Checking	BLDG2	BLDP2	001-000-322-11-00	BPPLN	3433.30
Building Permit Fees - Plumbing	BLDG3	BLDP3	001-000-322-12-00	BPPLUM	
Building Permit Fees - Mechanical	BLDG4	BLDP4	001-000-322-13-00	BPMECH	
Building Permit Fees - Grading	BLDG6	BLDP6	001-000-322-15-00	BPGRAD	
Building Permit Fees - Fire	BLDG7	BLDG7	001-000-322-16-00	BPFIRE	
Sales of Publications, copies, maps, etc.	SALEPB	SALS2	001-000-341-50-00	SALEPB	
Miscellaneous	MISC1		001-000-369-90-00		

Receipt Info: Batch 011.07.2005 Sub Total: 3523.30
Date 07/11/2005
0045488 3,523.30 Total: \$ 3,523.30
Cash 0.00
Check 0.00
Credit 3,523.30

le: return this to:
Patty L Cino

EXHIBIT #50

4/5



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
SEATTLE DISTRICT, CORPS OF ENGINEERS
P.O. BOX 3755
SEATTLE, WASHINGTON 98124-3755

Regulatory Branch

Date: 1/18/06

Number of pages faxed: 20

Reference: 200501001

Applicant: Rainier Yacht Harbor, LLC

To: Bob Frisbie

FAX Number: 503.641.0944

From:

Project Manager: Ron Wilcox

Regulatory Branch

Phone Number: (206) 766-6439

Fax Number: (206) 764-6602

COMMENTS:

Hello Bob,

I've faxed the JARPA, drawings and cancellation letters for the Rainier project.

Ron Wilcox
USACE

EXHIBIT # 5

HEX EXHIBIT# 55
APPEAL NOS. 05-1097, 05-1143, 05-1144

REPLY TO
ATTENTION OFDEPARTMENT OF THE ARMY
SEATTLE DISTRICT, CORPS OF ENGINEERS
P.O. BOX 3755
SEATTLE, WASHINGTON 98124-3755

NOV 17 2005

Regulatory Branch

Rainier Yacht Harbor, LLC
Mr. Bruce Steel
Post Office Box 875
Tacoma, Washington 98401Reference: 200501001
Rainier Yacht Harbor, LLC

Dear Mr. Steel:

In response to your agent's request of November 11, 2005, I have canceled your application for a Department of the Army permit to construct a marina for small craft in Gig Harbor at Gig Harbor, Washington.

Cancellation of your application at this time does not preclude you from resubmitting an application at a later date if and when this information is available. If you choose to reapply for a permit, you must submit a new permit application which includes a completed Joint Aquatic Resource Permit Application form, drawings, and the requested information.

Since a Department of the Army permit is necessary for this work, do not commence construction before the permit has been issued. A copy of this letter will be furnished to Mr. Jeffrey Layton at 12515 Willows Road Northeast, Suite 205, Kirkland, Washington 98034-8795. If you have any questions, please call me at (206) 766-6439 or via email at Ronald.J.Wilcox@usace.army.mil.

Sincerely,

Ron Wilcox, Project Manager
South Application Review Section

EXHIBIT #55

2/24

OD-RG File

**Layton
& Sell**
coastal and civil engineering

November 11, 2005

Ref. No. 460-01

Mr. Ron Wilcox
Project Manager
Department of the Army
Seattle District, Corps of Engineers
P. O. Box 3755
Seattle, WA 98124-3755

Jeffrey A. Layton, P.E.

John D. Sell, P.E.

Jeffrey T. Becker, RECEIVED

NOV 14 2005

REGULATORY

RE: Permit Application Withdrawal for Reference: 200501001
Applicant: Rainier Yacht Harbor, LLC
Purpose: Proposed Marina for Private Boat Moorage in Gig Harbor, WA

Dear Ron:

At the request of my client, Rainer Yacht Harbor, LLC (Rainer) this letter shall serve as notice that Rainer hereby withdraws its permit application for Corps reference number 200501001.

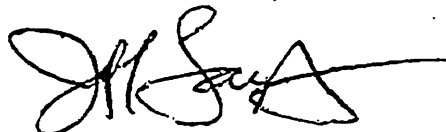
The application is being withdrawn because of pending design modifications, which would preclude the applicant from making a timely response to your comment letter dated October 7, 2005. Once the design modifications are complete, Rainier intends to re-submit the application. This will likely occur in the first quarter of 2006.

Copies of this letter will be provided to the Washington Department of Ecology and the Washington Department of Fish and Wildlife.

Thank you for your assistance in this matter.

Sincerely yours,

LAYTON & SELL, INC., P.S.



Jeffrey A. Layton, P.E.
President

cc: Mr. Bruce Steel, Rainier Yacht Harbor, LLC
Mr. David C. Molenaar, WDFW
Federal Permit Coordinator, DOE

EXHIBIT #55

3/24

AGENCY USE ONLY

Agency Reference #:

Date Received:

Circulated by:

(local govt. or agency)

Rev 5/27/05 AUG 3 4 2008

JOINT AQUATIC RESOURCES PERMIT APPLICATION FORM (JARPA)

(for use in Washington State)

**PLEASE TYPE OR PRINT IN BLACK INK.****TO FILL IN ELECTRONICALLY, USE F11 TO MOVE THROUGH THE FORM**

- ☐ Application for a Fish Habitat Enhancement Project per requirements of RCW 77.55.290. You must submit a copy of this completed JARPA application form and the (Fish Habitat Enhancement JARPA Addition) to your local Government Planning Department and Washington Department of Fish & Wildlife Area Habitat Biologist on the same day.

NOTE: LOCAL GOVERNMENTS -- You must submit any comments on these projects to WDFW within 15 working days.

Based on the instructions provided, I am sending copies of this application to the following: (check all that apply)

- ☒ Local Government for shoreline: ☒ Substantial Development ☐ Conditional Use ☐ Variance ☐ Exemption ☐ Revision
☐ Floodplain Management ☐ Critical Areas Ordinance
- ☒ Washington Department of Fish and Wildlife for HPA (Submit 3 copies to WDFW Region)
- ☒ Washington Department of Ecology for 401 Water Quality Certification (to Regional Office-Federal Permit Unit)
- ☒ Washington Department of Natural Resources for Aquatic Resources Use Authorization Notification
- ☒ Corps of Engineers for: ☒ Section 404 ☒ Section 10 permit
- ☐ Coast Guard for: ☐ General Bridge Act Permit ☐ Private Aids to Navigation (for non-bridge projects)
- ☐ For Department of Transportation projects only: This project will be designed to meet conditions of the most current Ecology/Department of Transportation Water Quality Implementing Agreement

SECTION A - Use for all permits covered by this application. Be sure to ALSO complete Section C (Signature Block) for all permit applications.**1. APPLICANT**

Rainier Yacht Harbor, LLC, Attention: Bruce Steel

MAILING ADDRESS

P. O. Box 875, Tacoma, WA 98401

WORK PHONE

253-59-2297

E-MAIL ADDRESS

bsteel@norpoint.com

HOME PHONE**FAX #**

253-759-2342

If an agent is acting for the applicant during the permit process, complete #2. Be sure agent signs Section C (Signature Block) for all permit applications**2. AUTHORIZED AGENT**

Jeffrey A. Layton, P.E., Layton & Sell, Inc., P.S., Consulting Engineers

MAILING ADDRESS

12515 Willows Road NE, Suite 205, Kirkland, WA 98034-8795

WORK PHONE

425-825-1735

E-MAIL ADDRESS

jlayton@layton-sell.com

HOME PHONE**FAX #**

425-825-1363

3. Relationship of applicant to property: ☒ OWNER ☐ PURCHASER ☐ LESSEE ☐ _____

4. Name, address and phone number of property owner(s) if other than applicant:

5. Location (street address, including city, county and zip code, where proposed activity exists or will occur)

3518 & 3525 Harborview Drive, Gig Harbor, Pierce County, Washington 98332

Local government with jurisdiction (city or county)

Waterbody you are working in Gig HarborIs this waterbody on the 303(d) List** YES ☐ NO ☒

If YES, what parameter(s)?

**For 303d List,

<http://www.ecy.wa.gov/programs/wq/303d/index.html>

Tributary of

WRIA #

15

Shoreline designation

Urban

Zoning designation

Waterfront Millville

DNR stream type if known

Not Applicable

1/4 Section

Section

05

Township

21N

Range

2E

Government Lot

Latitude and Longitude: 47°-20'-02" Lat. & 122°-35'-07" Long.

Tax Parcel Number

5970000250, 5970000241, 5970000242

EXHIBIT #55

4/24

6. Describe the current use of the property and structures existing on the property. Have you completed any portion of the proposed activity on this property? ☐ YES ☒ NO
For any portion of the proposed activity already completed on this property, indicate month and year of completion.
The existing site conditions consist of the following elements: (1) single-family home, (2) timber bulkhead, (3) overwater net shed and two timber piers.

Is the property agricultural land? ☐ YES ☒ NO Are you a USDA program participant? ☐ YES ☒ NO

- 7a. Describe the proposed work that needs aquatic permits. Complete plans and specifications should be provided for all work waterward of the ordinary high water mark or line, including types of equipment to be used. If applying for a shoreline permit, describe all work within and beyond 200 feet of the ordinary high water mark. If you have provided attached materials to describe your project, you still must summarize the proposed work here. Attach a separate sheet if additional space is needed.

Proposed Work:

The proposed work will consist of the construction of a 36-slip marina. Slip lengths will range from 36 feet to 60 feet. Floats will be constructed of concrete encased foam. The floating piers will be moored to the harbor bottom with steel and/or concrete guide piling. Access to the marina from the uplands will be provided by two aluminum pedestrian bridges and a 6-foot-wide by 80-foot-long aluminum gangway. The gangway will be connected to the seaward end of an existing timber pier. An existing net shed building located on the project site will be converted to a marina clubhouse, which will include restrooms and a multi-purpose room. Water, sewer, fire, electrical power and communications utilities will be extended from the uplands to the marina slips. Parking for the marina will be provided on the uplands. See the attached JARPA drawings for project details.

Proposed Mitigation:

For mitigation of the new overwater coverage, portions of two existing timber piers will be demolished and light permeable grating will be incorporated into an existing pier and into the new floating piers, access bridges and the gangway. In addition, 38 creosote-treated timber piles will be removed from the project site and disposed of on the uplands at an approved disposal site. Also, an existing 190-foot-long timber bulkhead will be removed to create 437 square feet \pm of new high intertidal habitat. Approximately 18 cubic yards of "fish mix" gravel will be placed over the former bulkhead site. Approximately 40 cubic yards of uplands will be excavated behind the bulkhead to create the new intertidal. (See 7c below for additional discussion).

PREPARATION OF DRAWINGS: See sample drawings and guidance for completing the drawings. ONE SET OF ORIGINAL OR GOOD QUALITY REPRODUCIBLE DRAWINGS MUST BE ATTACHED. NOTE: Applicants are encouraged to submit photographs of the project site, but these DO NOT substitute for drawings. THE CORPS OF ENGINEERS AND COAST GUARD REQUIRE DRAWINGS ON 8-1/2 X 11 INCH SHEETS. LARGER DRAWINGS MAY BE REQUIRED BY OTHER AGENCIES.

- 7b. Describe the purpose of the proposed work and why you want or need to perform it at the site. Please explain any specific needs that have influenced the design.

The purpose of the proposed project is to provide private boat moorage for watercraft varying in length from approximately 36 feet to 60 feet.

- 7c. Describe the potential impacts to characteristic uses of the water body. These uses may include fish and aquatic life, water quality, water supply, recreation and aesthetics. Identify proposed actions to avoid, minimize, and mitigate detrimental impacts and provide proper protection of fish and aquatic life. Identify which guidance documents you have used. Attach a separate sheet if additional space is needed.

The primary impact of the project will be an increase in overwater coverage of the project site. Existing overwater coverage is approximately 7,085 square feet. Developed conditions will result in approximately 13,388 square feet of coverage, resulting in a net increase of approximately 6,303 square feet. Light permeable grating will be incorporated into the floating moorage system, pedestrian bridges and gangway to help mitigate for overwater coverage impacts. In addition, portions of the two existing timber piers will be demolished, which will result in a significant increase (4,097 square feet) in sunlight to the intertidal zone. See Section 7a above for additional proposed mitigation features. For additional impact analysis, refer to the attached Biological Evaluation prepared by Dr. Dan Cheney, BioAquatics International, dated August 23, 2005.

- 7d. For in water construction work, will your project be in compliance with the State of Washington water quality standards for turbidity WAC 173.201A-110? ☒ YES ☐ NO (See USEFUL DEFINITIONS AND INSTRUCTIONS)

8. Will the project be constructed in stages? YES ☐ NO ☒

Proposed starting date: July 2006, pending approval

Estimated duration of activity: 3 months

9. Check if any temporary or permanent structures will be placed:

☒ Waterward of the ordinary high water mark or line for fresh or tidal waters AND/OR

☒ Waterward of the mean higher high water for tidal waters?

10. Will fill material (rock, fill, bulkhead, or other material) be placed: Yes, "fish mix" gravel for mitigation

☐ Waterward of the ordinary high water mark or line for fresh waters?

If YES, VOLUME (cubic yards) / AREA (acres)

☐ Waterward of the mean higher high water for tidal waters?

If YES, VOLUME (cubic yards) 18 / AREA 0.022 (acres) (0.011 \pm acres of existing intertidal and 0.011 \pm acres of new intertidal).

EXHIBIT #55

5/24

11. Will material be placed in wetlands?

YES ☒ NO

If YES:

A. Impacted area in acres:

B. Has a delineation been completed? If YES, please submit with application.

☐ YES ☐ NO

Has a wetland report been prepared? If YES, please submit with application

☐ YES ☐ NO

C. Type and composition of fill material (e.g., sand, etc.)

E. Material source:

F. List all soil series (type of soil) located at the project site, and indicate if they are on the county's list of hydric soils. Soils information can be obtained from the natural Resources Conservation Service (NRCS).

G. WILL PROPOSED ACTIVITY CAUSE FLOODING OR DRAINING OF WETLANDS? ☐ YES ☐ NO

If YES, IMPACTED AREA IS _____ ACRES OF DRAINED WETLANDS.

NOTE: If your project will impact greater than 1/4 of an acre of wetland, submit a mitigation plan to the Corps and Ecology for approval along with the JARPA form.

NOTE: A 401 water quality certification will be required from Ecology in addition to an approved mitigation plan if your project impacts wetlands that are: a) greater than 1/4 acre in size, or b) tidal wetlands or wetlands adjacent to tidal water. Please submit the JARPA form and mitigation plan to Ecology for an individual 401 certification if a) or b) applies.

12. Stormwater Compliance for Nationwide Permits Only: This project is (or will be) designed to meet ecology's most current stormwater manual, or an Ecology approved local stormwater manual. ☒ YES ☐ NOIf YES - Which manual will your project be designed to meet? DoE February, 2005

If NO - For clean water act Section 401 and 404 permits only - Please submit to Ecology for approval, along with this JARPA application, documentation that demonstrates the stormwater runoff from your project or activity will comply with the water quality standards, WAC 173.201(A)

13. Will excavation or dredging be required in water or wetlands? ☐ YES ☒ NO

If YES:

A. Volume: _____ (cubic yards) / area _____ (acre)

B. Composition of material to be removed: _____

C. Disposal site for excavated material: _____

D. Method of dredging: _____

14. Has the State Environmental Policy Act (SEPA) been completed ☐ YES ☒ NOSEPA Lead Agency: City of Gig HarborPA Decision: DNS, MDNS, EIS, Adoption, Exemption

Decision Date (end of comment period)

SUBMIT A COPY OF YOUR SEPA DECISION LETTER TO WDFW AS REQUIRED FOR A COMPLETE APPLICATION

15. List other Applications, approvals or certifications from other federal, state or local agencies for any structures, construction discharges or other activities described in the application (i.e. preliminary plat approval, health district approval, building permit, SEPA review, federal energy regulatory commission license (FERC), Forest practices application, etc.). Also, indicate whether work has been completed and indicate all existing work on drawings. NOTE: For use with Corps Nationwide Permits, identify whether your project has or will need an NPDES permit for discharging wastewater and/or stormwater.

TYPE OF APPROVAL	ISSUING AGENCY	IDENTIFICATION NO.	DATE OF APPLICATION	DATE APPROVED	COMPLETE?
Building Permit for Marina	City of Gig Harbor	N/A	To be applied for		
Harbor Area Lease	Dept. of Natural Resources	Pending	Pending	Pending	
Building Permit for Upland Residence	City of Gig Harbor	BP05-111	July 11, 2005	Pending	
Building Permit for Upland Residence	City of Gig Harbor	BP05-112	July 11, 2005	Pending	

16. Has any agency denied approval for the activity you're applying for or for any activity directly related to the activity described herein?

☐ YES ☒ NO

If YES, explain:

EXHIBIT #55

6/24

SECTION B - Use for Shoreland Corps of Engineers permit only:

17a. Total cost of project. This means the fair market value of the project, including materials, labor, machine rentals, etc.

\$1,500,000 +/-

17b. If a project or any portion of a project receives funding from a federal agency, that agency is responsible for ESA consultation. Please indicate if you will receive federal funds and what federal agency is providing those funds. See instructions for information on ESA.

FEDERAL FUNDING ☐ YES ☒ NO If YES, please list the federal agency.

18. Local government with jurisdiction: City of Gig Harbor

19. For Corps, Coast Guard and DNR permits, provide names, addresses and telephone numbers of adjoining property owners, lessees, etc. Please note: Shoreline Management Compliance may require additional notice - consult your local government.

NAME	ADDRESS	PHONE NUMBER
Tarabochia Rose J	8021 Shirley Ave, Gig Harbor, WA 98332	253-851-5721
Dupille Carolyn S	3526 Harborview Drive, Gig Harbor, WA 98332	N/A
Jerkovich Nick	7302 Soundview Dr, Gig Harbor, WA 98335	253-851-2841

SECTION C - This section MUST be completed for any permit covered by this application

20. Application is hereby made for a permit or permits to authorize the activities described herein. I certify that I am familiar with the information contained in this application, and that to the best of my knowledge and belief, such information is true, complete, and accurate. I further certify that I possess the authority to undertake the proposed activities. I hereby grant to the agencies to which this application is made, the right to enter the above-described location to inspect the proposed, in-progress or completed work. I agree to start work ONLY after all necessary permits have been received.

Bruce R. L. P. MANAGING MEMBER
SIGNATURE OF APPLICANT

DATE
7/22/05

Jeffrey A. Layton
SIGNATURE OF AUTHORIZED AGENT

DATE
8/23/05

I HEREBY DESIGNATE Jeffrey A. Layton, P.E. TO ACT AS MY AGENT IN MATTERS RELATED TO THIS APPLICATION FOR PERMIT(S). I UNDERSTAND THAT IF A FEDERAL PERMIT IS ISSUED, I MUST SIGN THE PERMIT.

Bruce R. L. P. MANAGING MEMBER 7/22/05
SIGNATURE OF APPLICANT DATE

Bruce R. L. P. MANAGING MEMBER
SIGNATURE OF LANDOWNER (EXCEPT PUBLIC ENTITY LANDOWNERS, E.G. DNR) RAINIER YACHT HARBOR, LLC

THIS APPLICATION MUST BE SIGNED BY THE APPLICANT AND THE AGENT, IF AN AUTHORIZED AGENT IS DESIGNATED.

18 U.S.C §1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly falsifies, conceals, or covers up by any trick, scheme, or device a material fact or makes any false, fictitious, or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than 5 years or both.

COMPLETED BY LOCAL OFFICIAL

A. Nature of the existing shoreline. (Describe type of shoreline, such as marine, stream, lake, lagoon, marsh, bog, swamp, flood plain, floodway, delta; type of beach, such as accretion, erosion, high bank, low bank, or dike; material such as sand, gravel, mud, clay, rock, riprap; and extent and type of bulkheading, if any)

B. In the event that any of the proposed buildings or structures will exceed a height of thirty-five feet above the average grade level, indicate the approximate location of and number of residential units, existing and potential, that will have an obstructed view:

C. If the application involves a conditional use or variance, set forth in full that portion of the master program which provides that the proposed use may be a conditional use, or, in the case of a variance, from which the variance is being sought:

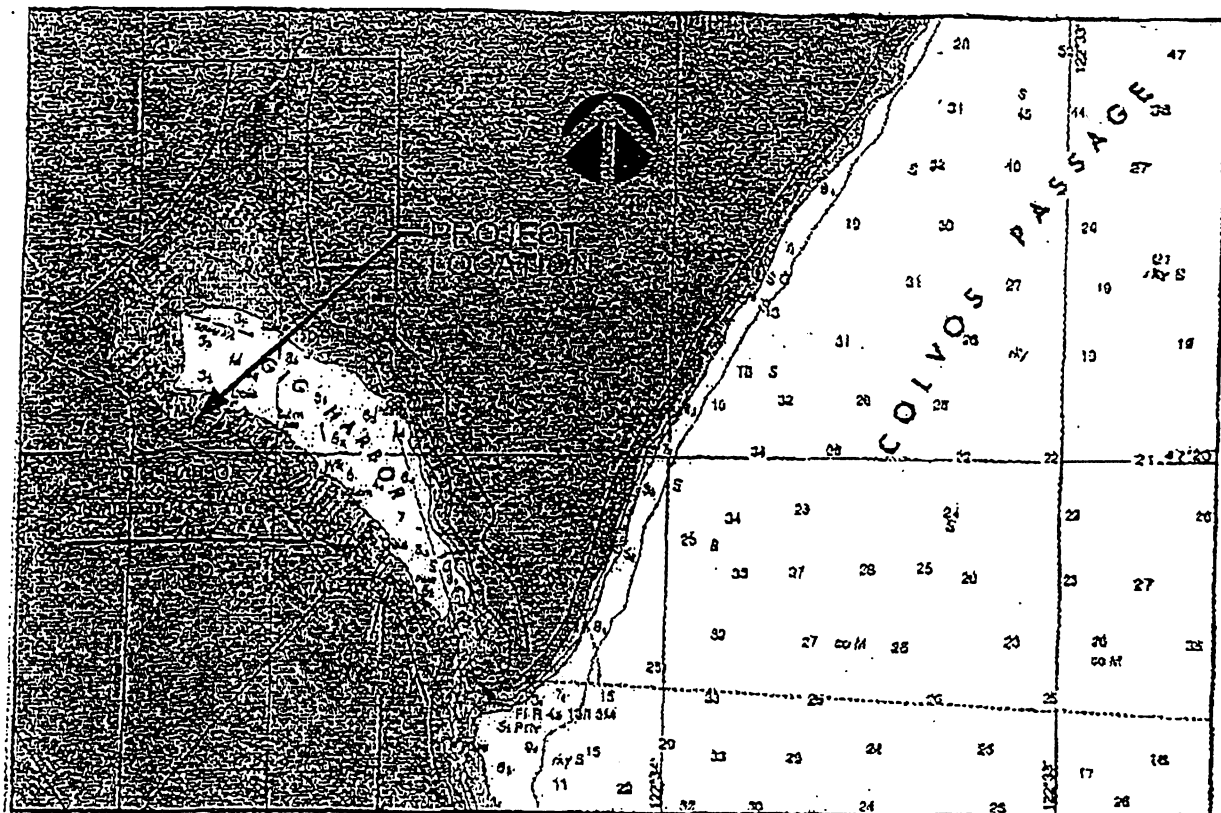
These Agencies are Equal Opportunity and Affirmative Action employers.

For special accommodation needs, please contact the appropriate agency in the instructions

FCY 070-15 (Rev. 11/04) JARPA Contact the State of Washington Office of Regulatory Assistance for latest version or call 360/407-7037 or 800/917-0043

Exhibit #55

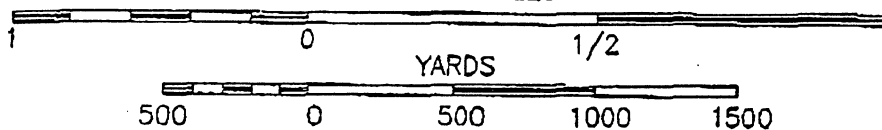
7/24



SOURCE: NOAA CHART NO. 18445
INSET 7 (DEPTH IN FATHOMS)

VICINITY MAP

NAUTICAL MILES



PURPOSE: PROPOSED MARINA FOR PRIVATE BOAT MOORAGE

PROJECT LOCATION:

LAT = 47°20'02"

LO = 122°35'07"

DATUM: MLLW=0.0'

PROPOSED MARINA FOR
PRIVATE BOAT MOORAGE

IN: GIG HARBOR

AT: CITY OF GIG HARBOR

COUNTY: PIERCE

STATE: WASHINGTON

APPL BY: RAINIER YACHT HARBOR, LLC

SHEET: 1 OF 17 DATE: 8/23/2005

REV:

EXHIBIT #55

8/24



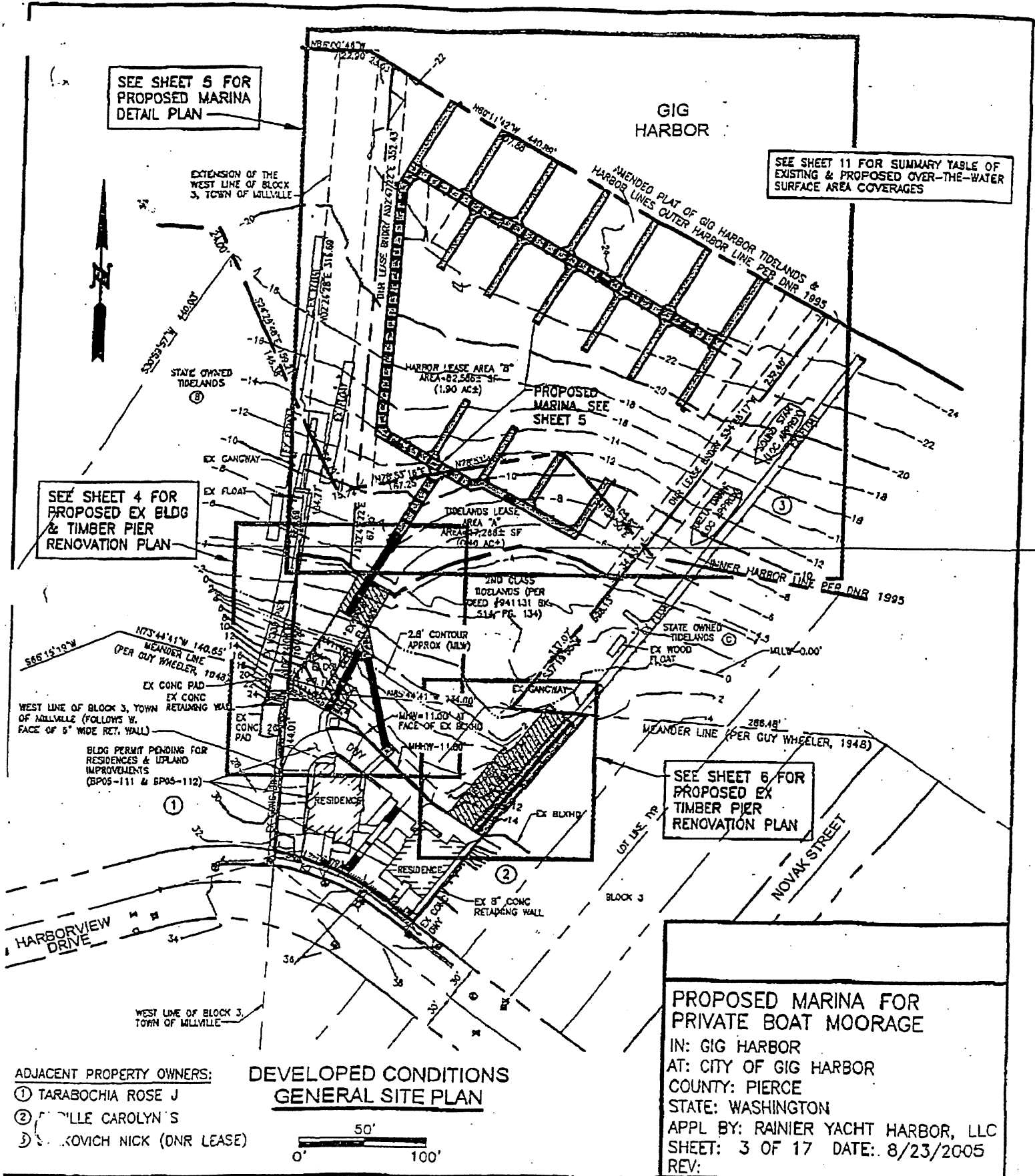


Exhibit #55

10/24

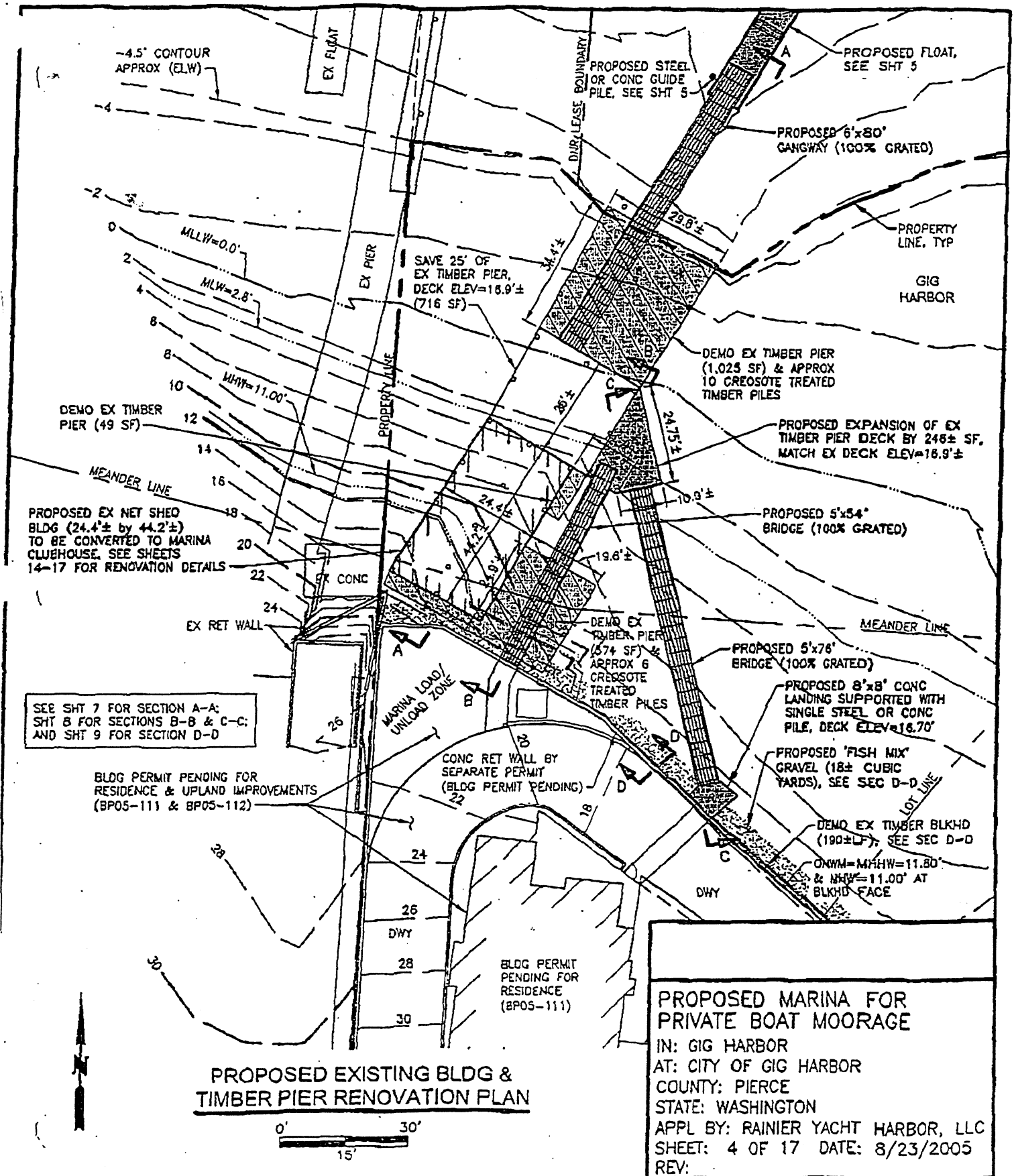
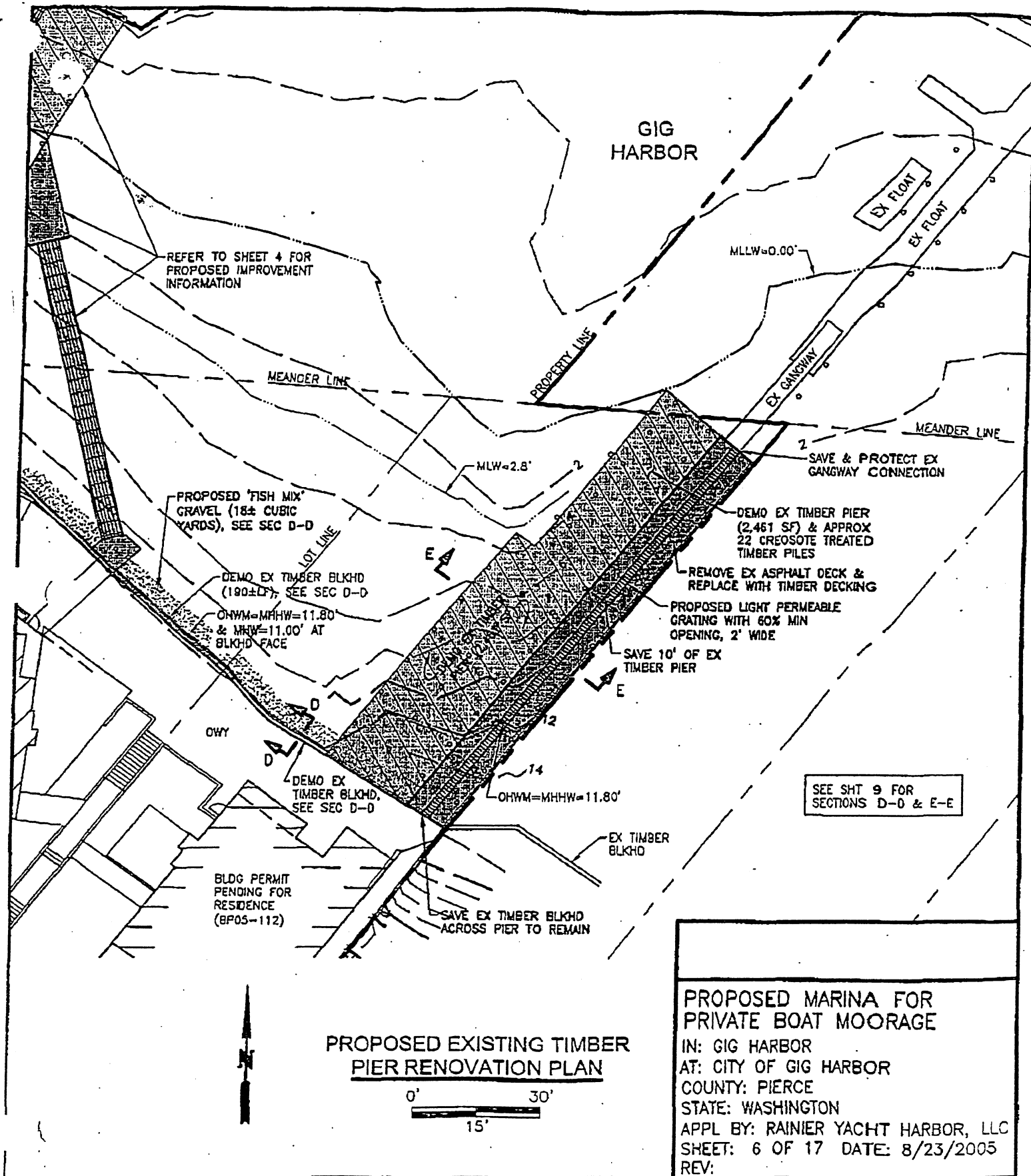
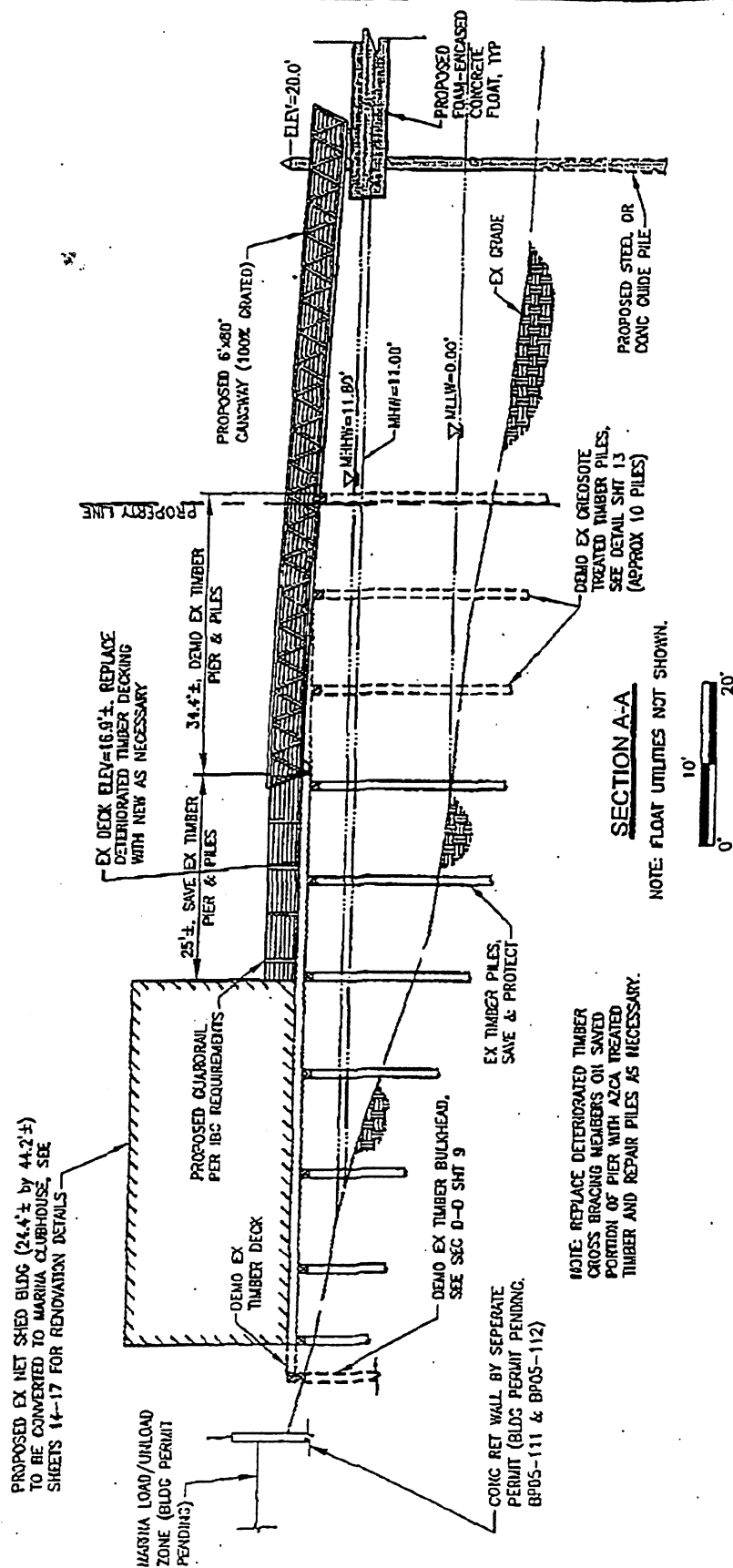


EXHIBIT #55

11/24





PROPOSED MARINA FOR PRIVATE BOAT MOORAGE

IN: GIG HARBOR

AT: CITY OF GIG HARBOR

COUNTY: PIERCE

STATE: WASHINGTON

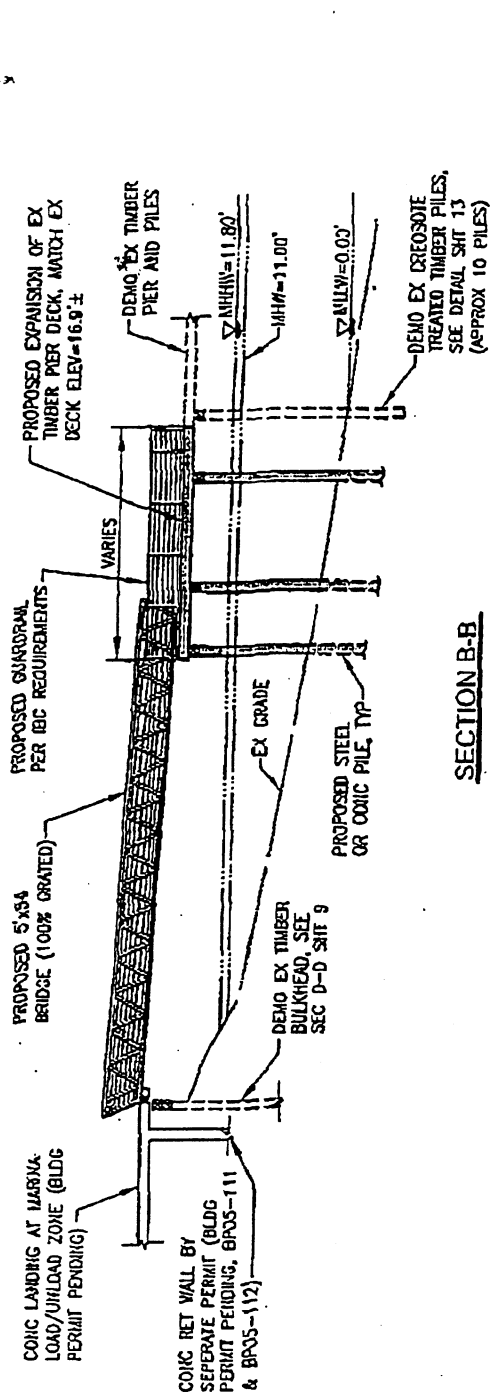
APPL BY: RAINIER YACHT HARBOR, LLC

SHEET: 7 OF 17 DATE: 8/23/2005

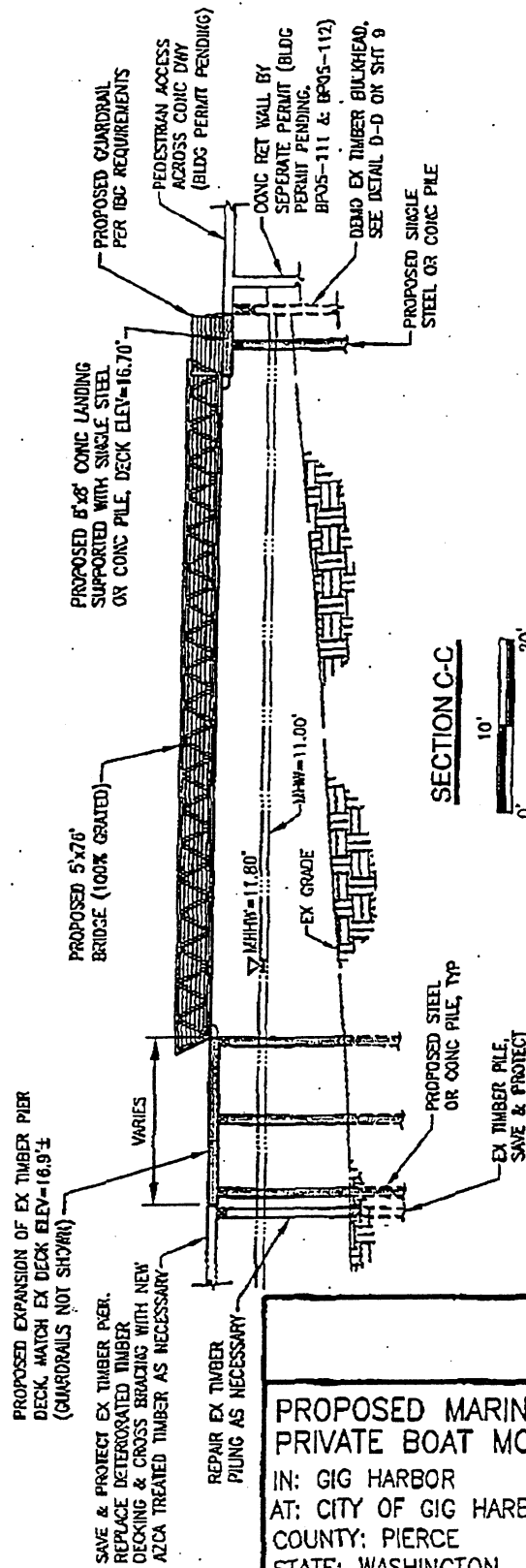
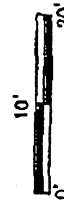
REV:

EXHIBIT #35

14/24

**SECTION B-B**

NOTE: FLOAT UTILITIES NOT SHOWN.

**SECTION C-C****PROPOSED MARINA FOR
PRIVATE BOAT MOORAGE**

IN: GIG HARBOR

AT: CITY OF GIG HARBOR

COUNTY: PIERCE

STATE: WASHINGTON

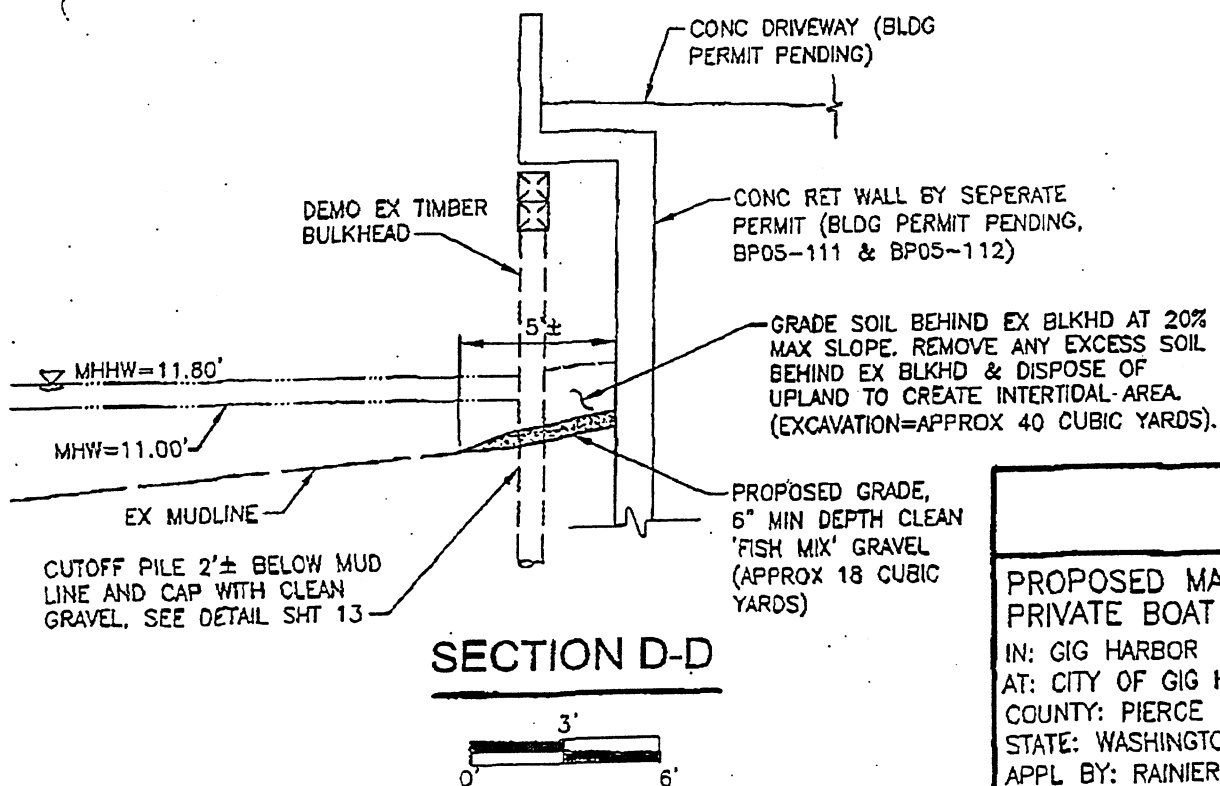
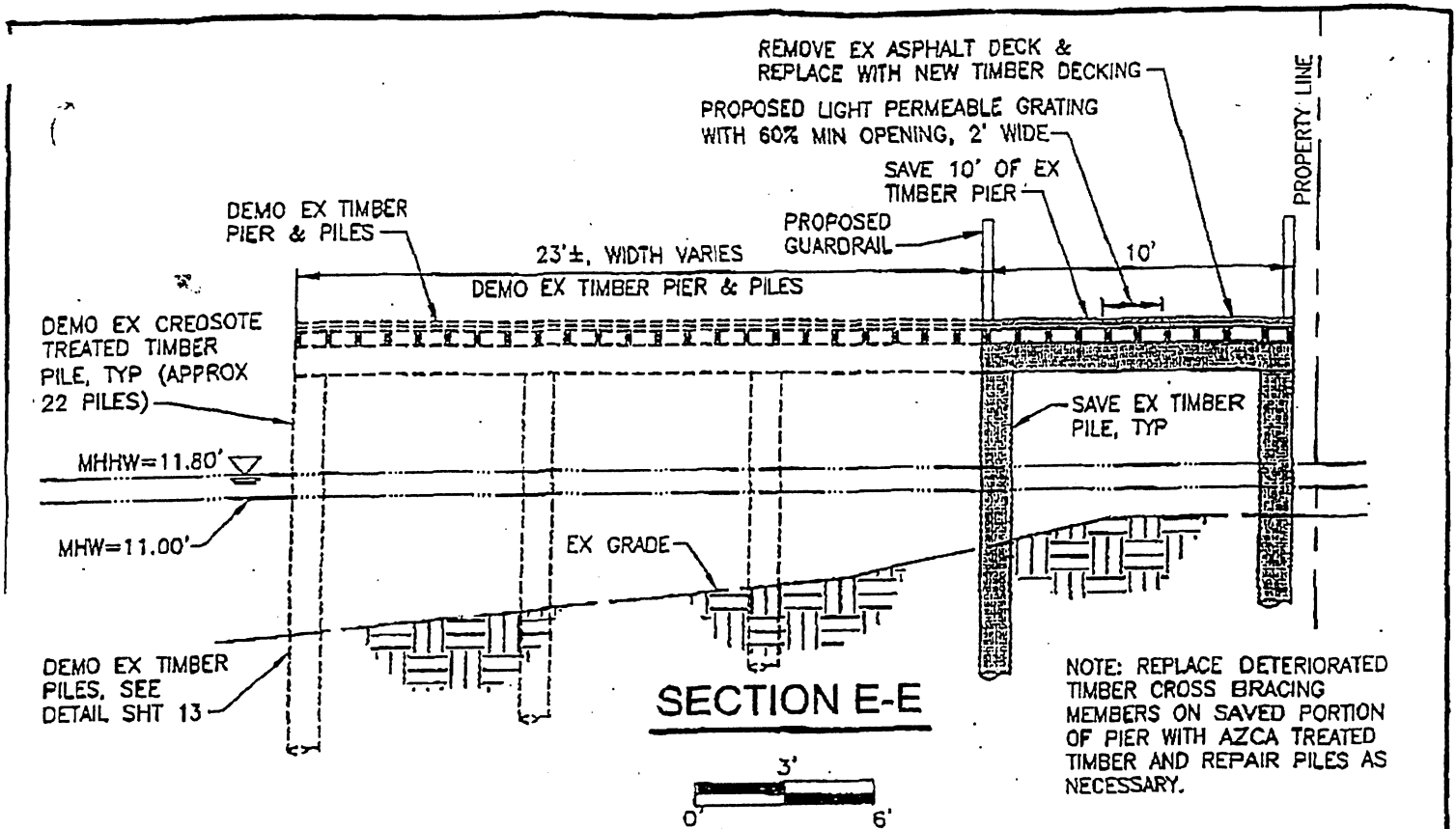
APPL BY: RAINIER YACHT HARBOR, LLC

SHEET: 8 OF 17 DATE: 8/23/2005

REV:

EXHIBIT #55

15/24

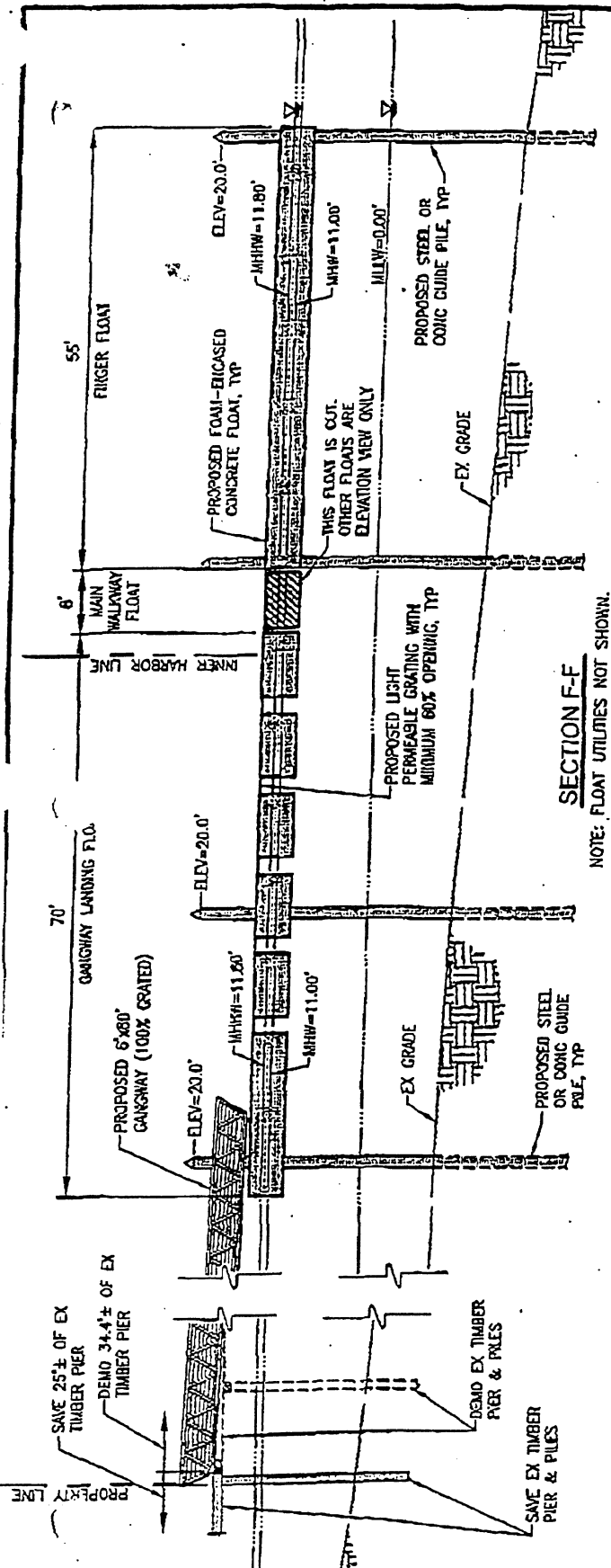


PROPOSED MARINA FOR PRIVATE BOAT MOORAGE

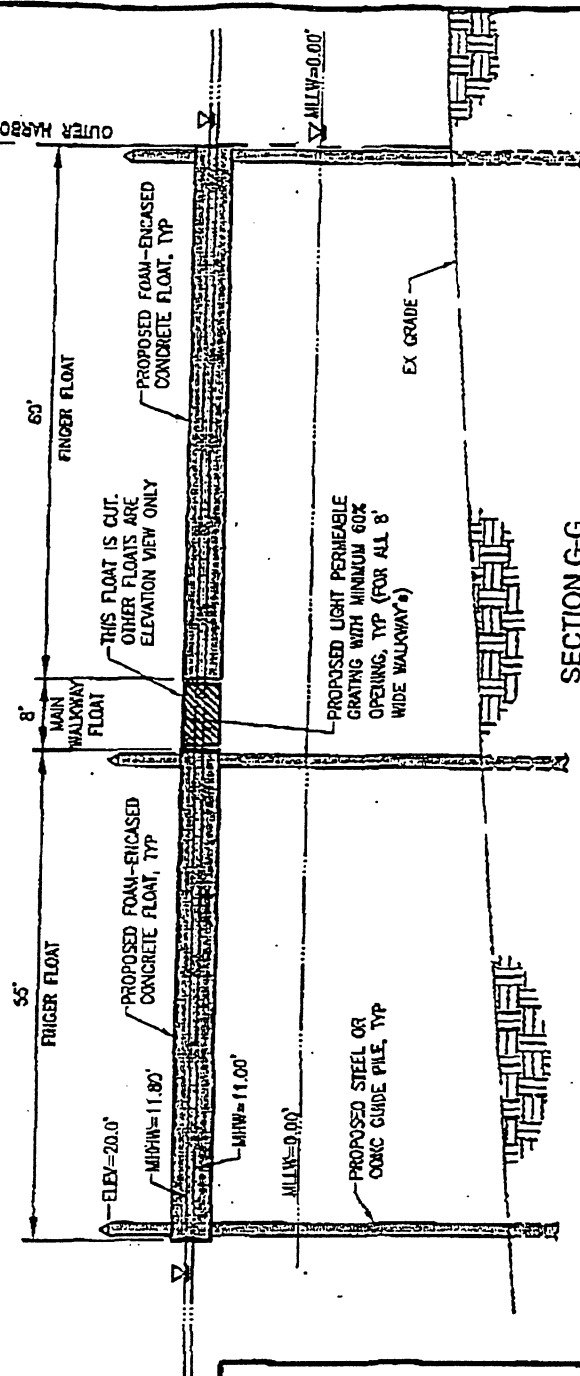
IN: GIG HARBOR
 AT: CITY OF GIG HARBOR
 COUNTY: PIERCE
 STATE: WASHINGTON
 APPL BY: RAINIER YACHT HARBOR, LLC
 SHEET: 9 OF 17 DATE: 8/23/2005
 REV:

EXHIBIT #55

16/24



0 10' 20'



0 10' 20'

PROPOSED MARINA FOR PRIVATE BOAT MOORAGE

IN: GIG HARBOR

AT: CITY OF GIG HARBOR

COUNTY: PIERCE

STATE: WASHINGTON

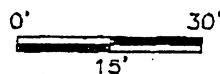
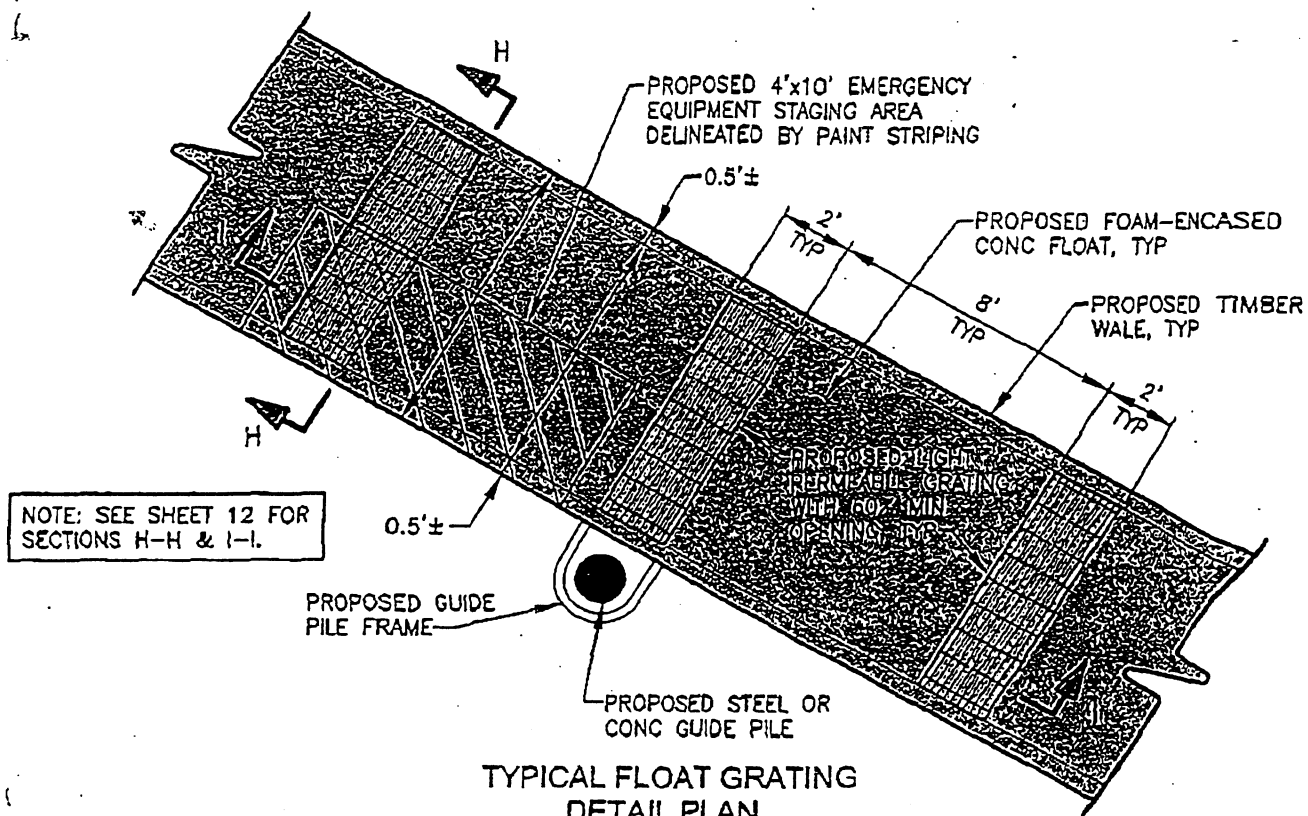
APPL BY: RAINIER YACHT HARBOR, LLC

SHEET: 10 OF 17 DATE: 8/23/2005

REV:

EXHIBIT #55

17/24



SUMMARY TABLE OVER-THE-WATER SURFACE AREA COVERAGES:

	EXISTING CONDITIONS (SQUARE FEET)	PROPOSED DEVELOPED CONDITIONS (SQUARE FEET)	PROPOSED LIGHT PERMEABLE GRATING ADJUSTMENT (SQUARE FEET)	PROPOSED NET CHANGE (SQUARE FEET)
EXISTING OVER-THE-WATER BUILDING (WEST)	-1,080	1,080	--	0
EXISTING FIXED PIER (WEST)	-2,364	962	--	-1,402
EXISTING FIXED PIER (EAST)	-3,641	1,180	-234	-2,695
PROPOSED GANGWAY, BRIDGE'S & 8'x8' BRIDGE LANDING	--	1,108	-1,050	+58
PROPOSED MOORAGE FLOATS	--	11,238	-896	+10,342
TOTALS	-7,085	15,568	-2,180	+6,303

APPROXIMATE MOORAGE DISTRIBUTION:

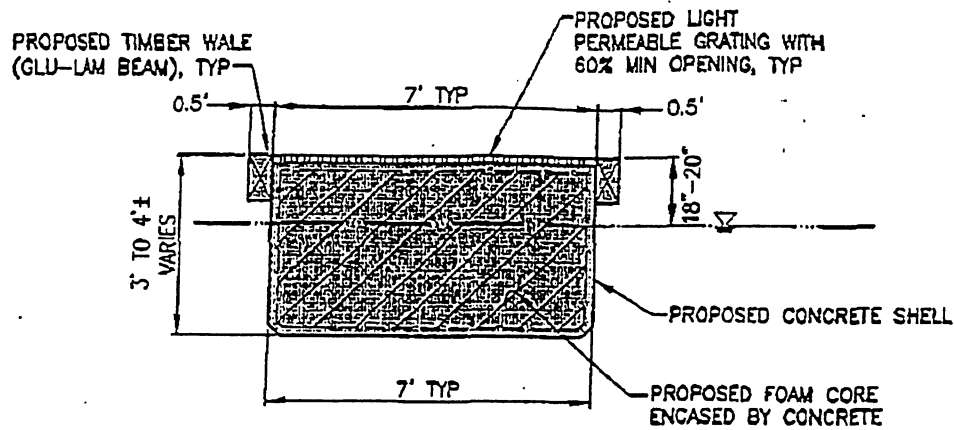
SLIP LENGTH	NUMBER	LINEAL FEET
60	14	840
55	15	825
50	5	250
40	1	40
36	1	36
TOTALS	36	1,991

PROPOSED MARINA FOR PRIVATE BOAT MOORAGE

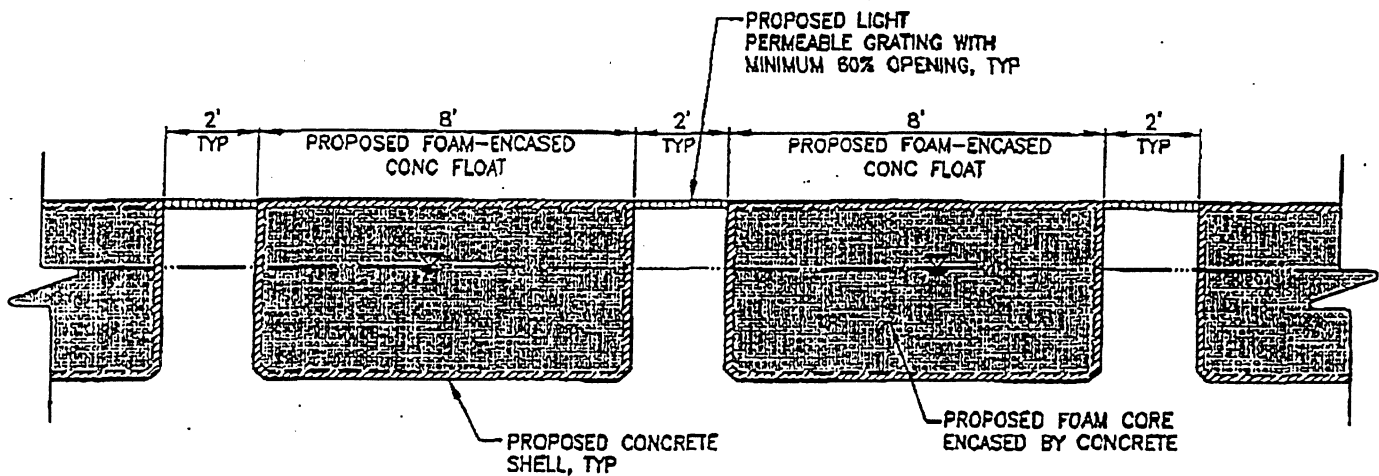
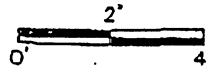
IN: GIG HARBOR
AT: CITY OF GIG HARBOR
COUNTY: PIERCE
STATE: WASHINGTON
APPL BY: RAINIER YACHT HARBOR, LLC
SHEET: 11 OF 17 DATE: 8/23/2005
REV:

Ex 11817-55

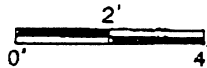
18/24

SECTION H-H

NOTE: FLOAT UTILITIES NOT SHOWN.

SECTION I-I

NOTE: FLOAT UTILITIES NOT SHOWN.

**PROPOSED MARINA FOR
PRIVATE BOAT MOORAGE**

IN: GIG HARBOR

AT: CITY OF GIG HARBOR

COUNTY: PIERCE

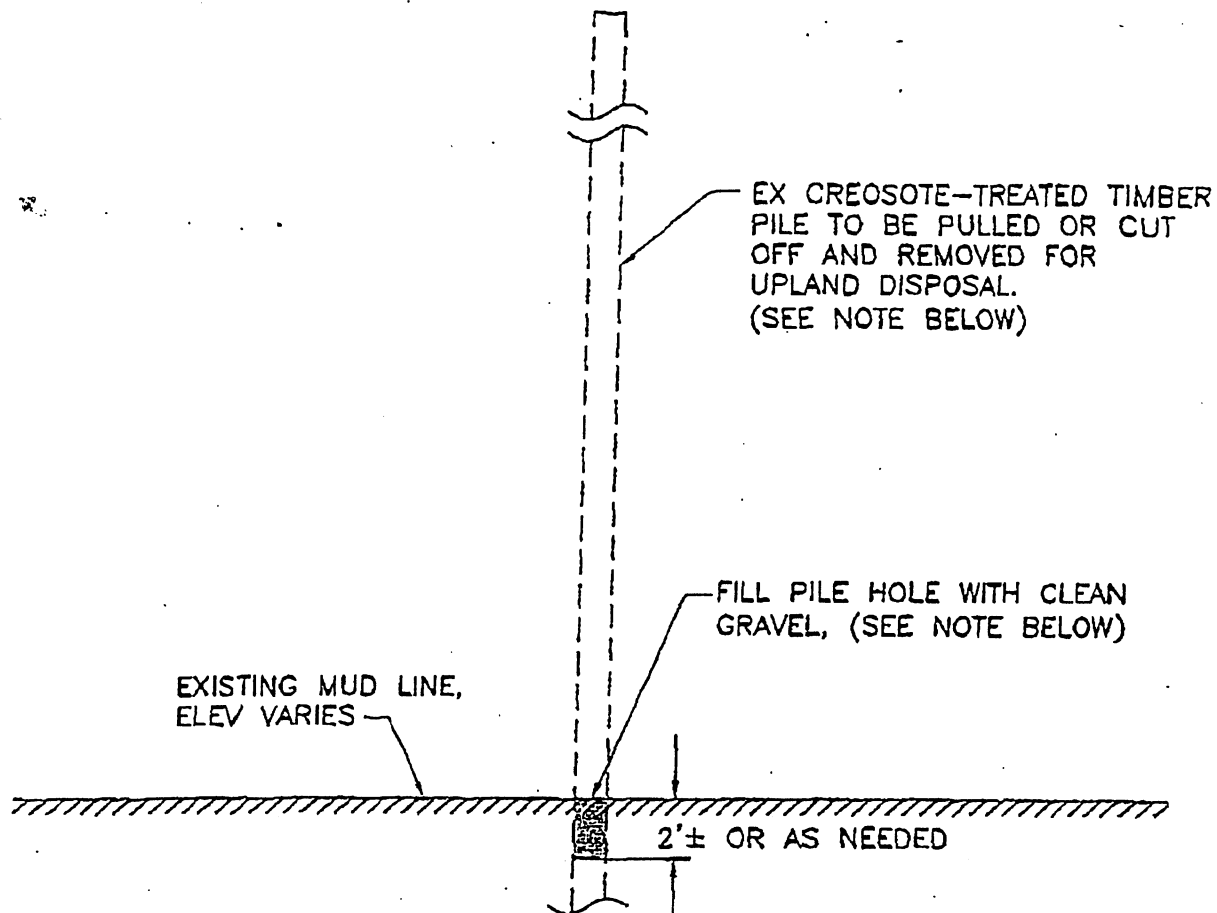
STATE: WASHINGTON

APPL BY: RAINIER YACHT HARBOR, LLC

SHEET: 12 OF 17 DATE: 8/23/2005

REV:

*Exhibit 17-155**19/24*



TYPICAL PILE REMOVAL DETAIL

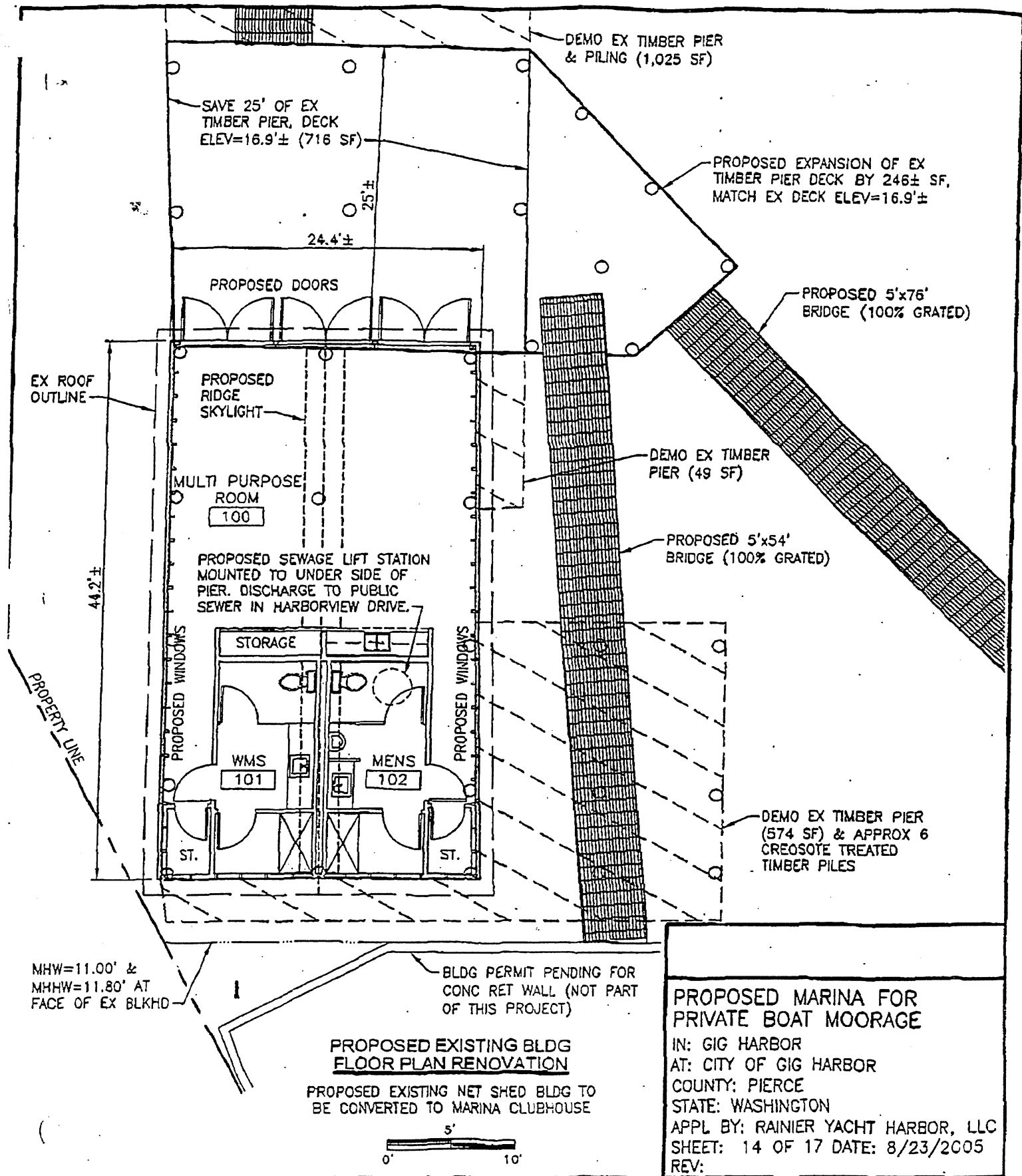
NOT TO SCALE

NOTE: EXISTING TIMBER PILES SHALL BE FULLY EXTRACTED BY DIRECT PULLING WITH A CRANE BARGE OR VIBRATORY HAMMER. HYDRAULIC WATER JETTING WILL NOT BE ALLOWED. REMAINING PILE HOLES SHALL BE FILLED WITH CLEAN SAND. IF AN EXISTING PILE CAN NOT BE EXTRACTED, THE PILE SHALL BE CUT 2-FEET BELOW THE MUDLINE AND CAPPED WITH CLEAN SAND OR COVERED WITH A PLASTIC OR STEEL CAP TO INSURE THAT CHEMICALS FROM THE EXISTING PILE DO NOT LEACH INTO THE ADJACENT SEDIMENTS. EXTRACTED PILES WILL BE CUT INTO FOUR (4) FOOT LENGTHS PRIOR TO DISPOSAL.

PROPOSED MARINA FOR
PRIVATE BOAT MOORAGE
IN: GIG HARBOR
AT: CITY OF GIG HARBOR
COUNTY: PIERCE
STATE: WASHINGTON
APPL BY: RAINIER YACHT HARBOR, LLC
SHEET: 13 OF 17 DATE: 8/23/2005
REV:

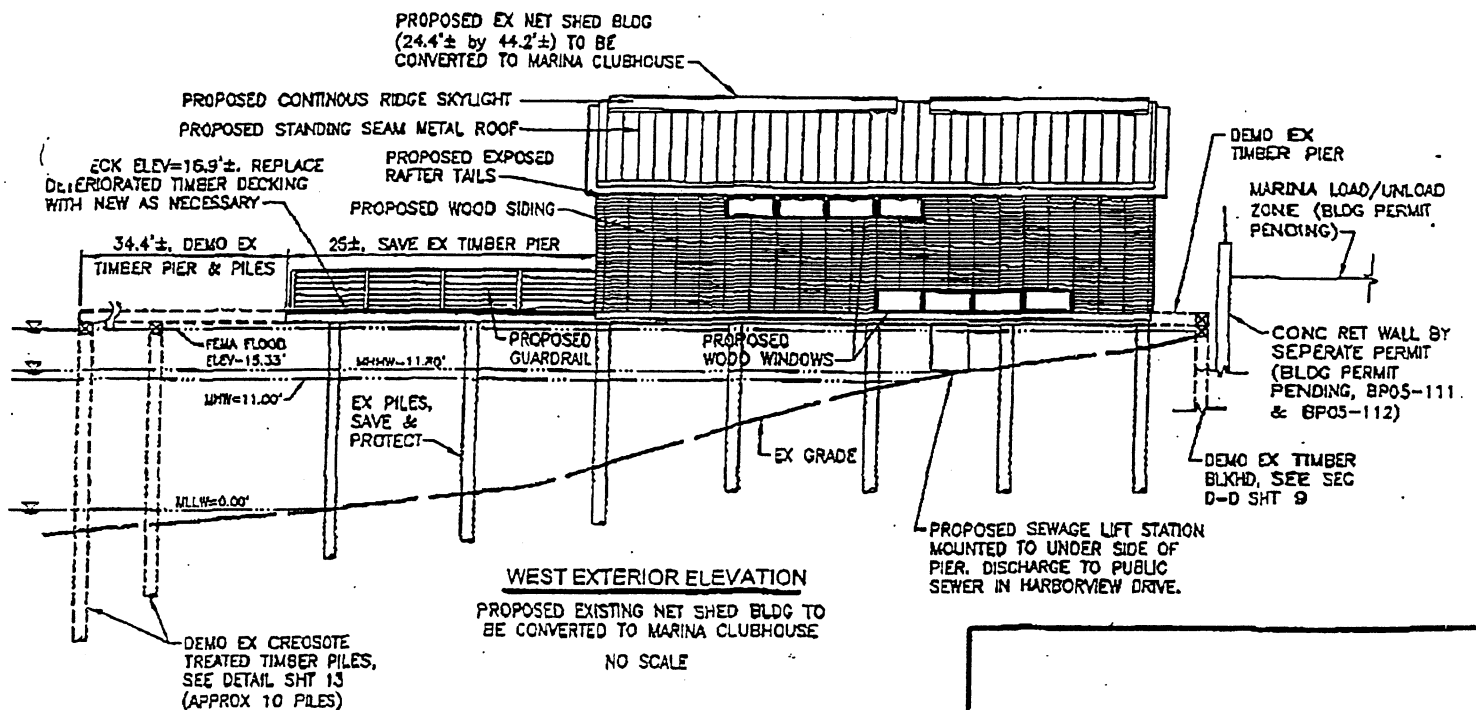
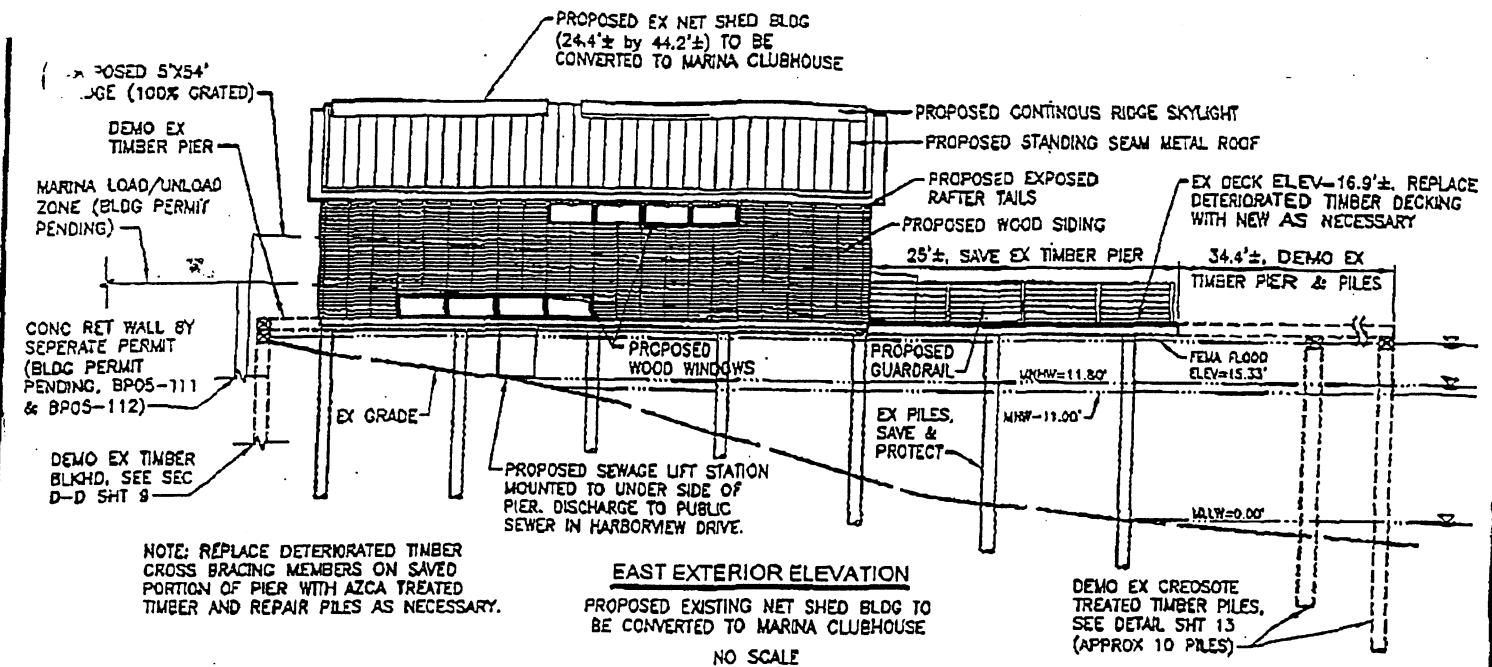
EXHIBIT # 55

20 / 24



Ex#1817 #53

21/24

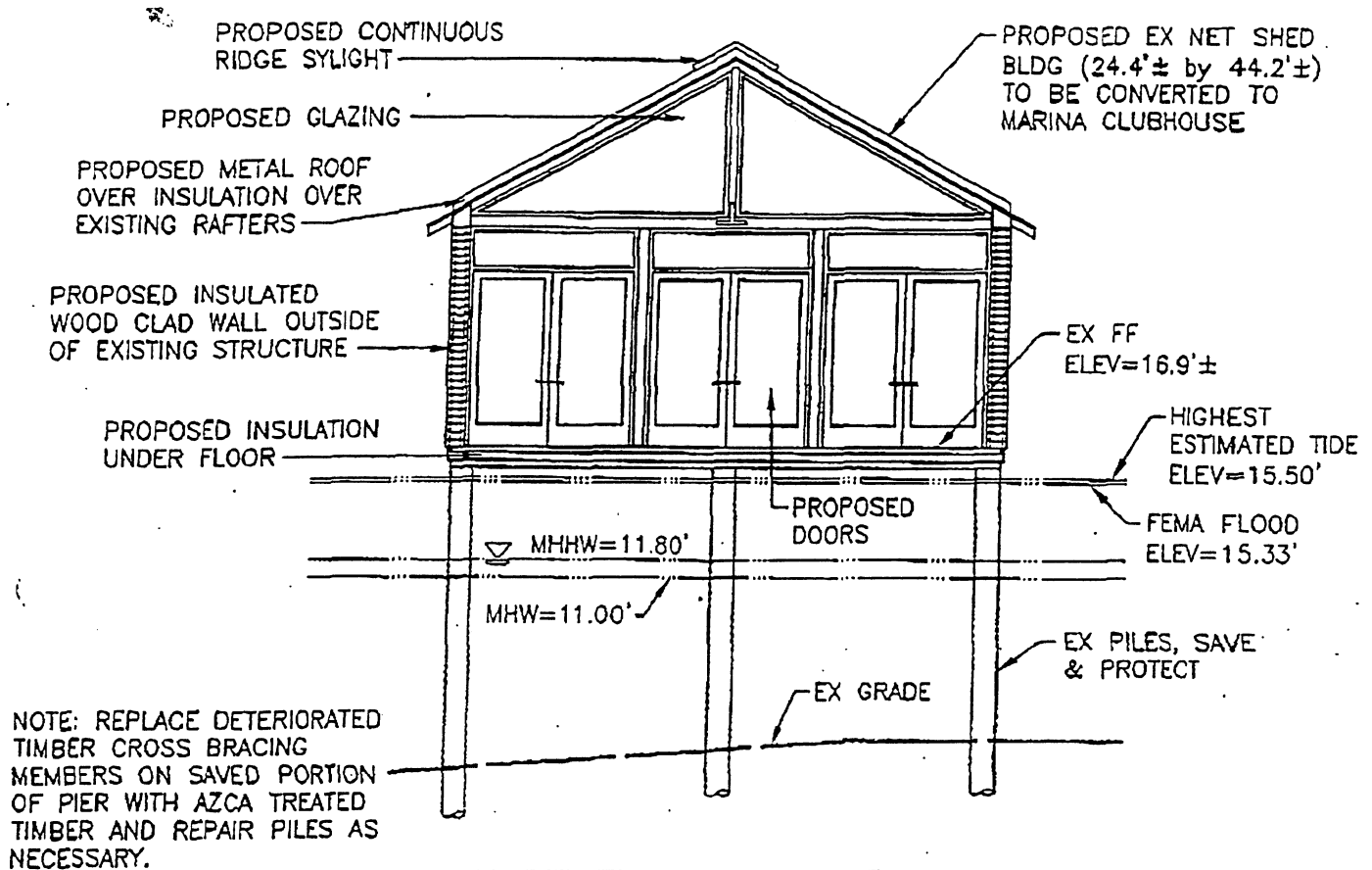


TIDAL DATA:
 HIGHEST ESTIMATED TIDE = 15.50'±0.5'
 MEAN HIGHER HIGH WATER = 11.80'
 MEAN HIGH WATER = 11.00'
 MEAN LOWER LOW WATER = 0.0'
 LOWEST ESTIMATED TIDE = -4.50'±0.5'
 FEMA FLOOD ELEV = 15.33'

PROPOSED MARINA FOR PRIVATE BOAT MOORAGE

IN: GIG HARBOR
 AT: CITY OF GIG HARBOR
 COUNTY: PIERCE
 STATE: WASHINGTON
 APPL BY: RAINIER YACHT HARBOR, LLC
 SHEET: 15 OF 17 DATE: 8/23/2005
 REV:

EXHIBIT # 53 222/24



NORTH EXTERIOR ELEVATION

PROPOSED EXISTING NET SHED BLDG TO
BE CONVERTED TO MARINA CLUBHOUSE

NO SCALE

TIDAL DATA:

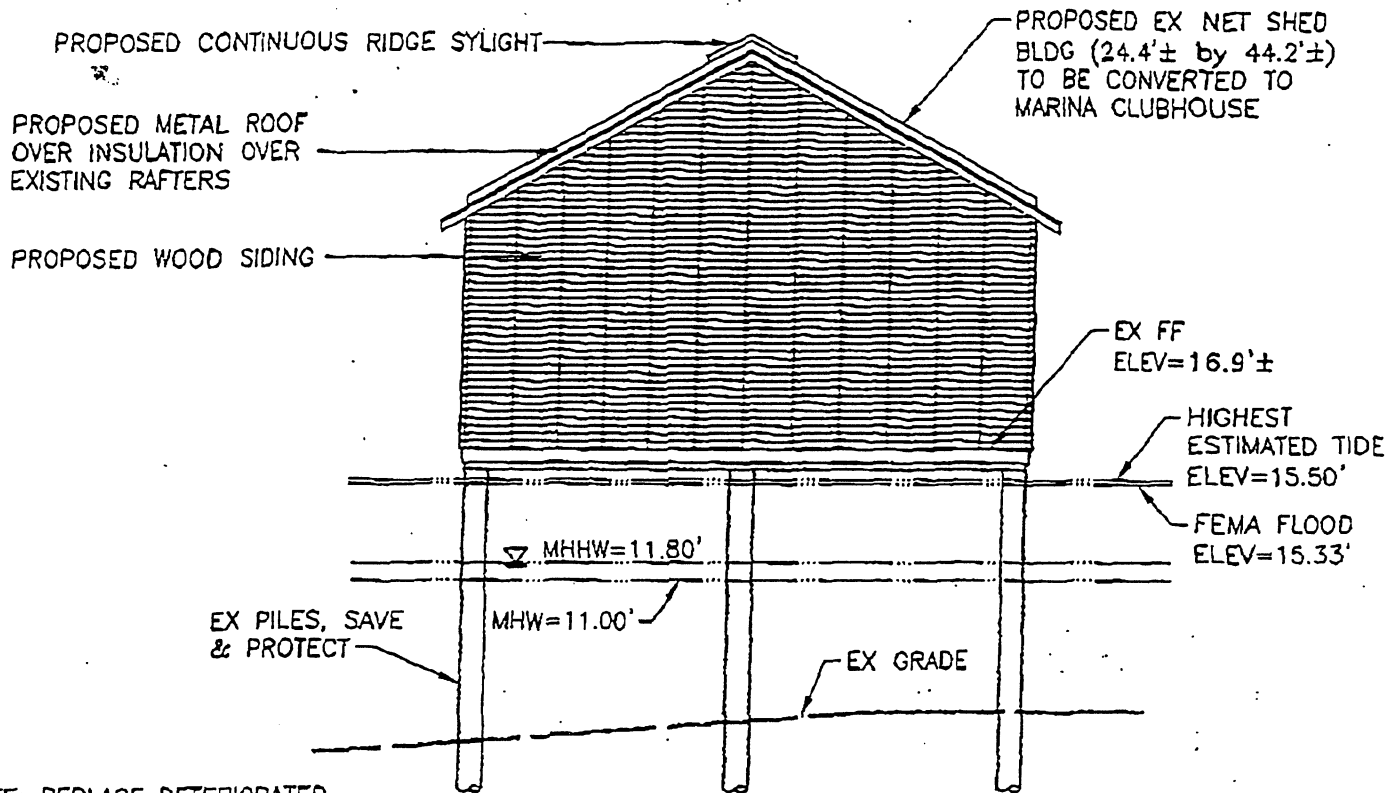
HIGHEST ESTIMATED TIDE = 15.50'±0.5'
 MEAN HIGHER HIGH WATER = 11.80'
 MEAN HIGH WATER = 11.00'
 MEAN LOWER LOW WATER = 0.0'
 LOWEST ESTIMATED TIDE = -4.50'±0.5'
 FEMA FLOOD ELEV = 15.33'

PROPOSED MARINA FOR PRIVATE BOAT MOORAGE

IN: GIG HARBOR
 AT: CITY OF GIG HARBOR
 COUNTY: PIERCE
 STATE: WASHINGTON
 APPL BY: RAINIER YACHT HARBOR, LLC
 SHEET: 16 OF 17 DATE: 8/23/2005
 REV:

Exhibit # 55

23 E/24



NOTE: REPLACE DETERIORATED
TIMBER CROSS BRACING
MEMBERS ON SAVED PORTION
OF PIER WITH AZCA TREATED
TIMBER AND REPAIR PILES AS
NECESSARY.

SOUTH EXTERIOR ELEVATION

PROPOSED EXISTING NET SHED BLDG TO
BE CONVERTED TO MARINA CLUBHOUSE

NO SCALE

TIDAL DATA:

HIGHEST ESTIMATED TIDE = 15.50'±0.5'

MEAN HIGHER HIGH WATER = 11.80'

MEAN HIGH WATER = 11.00'

MEAN LOWER LOW WATER = 0.0'

LOWEST ESTIMATED TIDE = -4.50'±0.5'

FEMA FLOOD ELEV = 15.33'

PROPOSED MARINA FOR PRIVATE BOAT MOORAGE

IN: GIG HARBOR

AT: CITY OF GIG HARBOR

COUNTY: PIERCE

STATE: WASHINGTON

APPL BY: RAINIER YACHT HARBOR, LLC

SHEET: 17 OF 17 DATE: 8/23/2005

REV:

EXHIBIT #55

24/24

Pierce County Garage Sizes

Information from Pierce County Assessor

Basement w
Garage



Address	House / Finished Attic Sq Footage	Basement / Garage Car SPACES	Sq Footage
7916 Goodman Dr NW 1	2691	3	3668
7930 Goodman Dr NW 2	3352	3	2003
7906 Goodman Dr NW 3	8328	3	3178
7726 Goodman Dr NW 4	3758	3	2898
7720 Goodman Dr NW 5	3236	2	2138
7712 Goodman Dr NW 6	2471	4	4687
8104 Goodman Dr NW 7	3005	2	3081
8920 Randall Dr NW 8 Double	1852	2/unt	3539
2715 50th Ave NW	3097		6613
13025 Point Richmond Dr NW	3872		3422
2620 111th Ave NW	2716		2278
8304 86th Ave NW	7824		2003
7118 Ford Dr NW	2744		4052
11212 28th St Ct NW	3002		3854
9304 96th St NW	8013		3808
12921 Dubois Ave SW	4816		3450
Steel House	4492		5150
Burton House	4372		3650

Other Counties

Information from Multiple Listing Service

Address	City	# of Cars Covered Parking
29421 SE 15th Pl	Fall City	15
9430 SW 232nd St	Edmonds	11
16611 93rd St SE	Snohomish	10
10079 Samish Island Rd	Anacortes	10
47230 288th Ave SE	Enumclaw	15
24033 Issaquah-Fall City Rd	Issaquah	12
8448 N Mercer Way	Mercer Island	11

EXHIBIT D

EXHIBIT # 56-
FMS/DIE

HEX EXHIBIT# 456
APPEAL NOS. 05-1097, 05-1143, 05-1144

Pierce County Garage Sizes

Information from Pierce County Assessor

Address	House / Finished Attic Sq Footage	Basement / Garage Sq Footage
7916 Goodman Dr NW	2691	3668
7930 Goodman Dr NW	3352	2003
7906 Goodman Dr NW	8328	3178
7726 Goodman Dr NW	3758	2898
7720 Goodman Dr NW	3236	2138
7712 Goodman Dr NW	2471	4687
8104 Goodman Dr NW	3005	3081
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13025 Point Richmond Dr Nw	3872	3422
2620 111th Ave NW	2716	2278
8304 86th Ave NW	7824	2003
7118 Ford Dr NW	2744	4052
11212 28th St Ct NW	3002	3854
9304 96th St NW	8013	3808
12921 Dubois Ave SW	4816	3450
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Other Counties

Information from Multiple Listing Service

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10079 Samish Island Rd	Anacortes	10
47230 288th Ave SE	Enumclaw	15
24033 Issaquah-Fall City Rd	Issaquah	12
8448 N Mercer Way	Mercer Island	11

EXHIBIT D

HEX EXHIBIT# 60
APPEAL NOS. 05-1097,05-1143, 05-1144

Which of the following applies? (Check One and Attach written authority to: (laws, power of attorney, etc):
 2 Corporation _____ (Date of Registration): _____ (Government Agency _____)
 General Partnership _____ Limited Partnership _____ (State of Registration): _____
 Sole Proprietorship _____ Marital Community _____ (Spouse): _____
 5 Other LLC (Please Explain): LIMITED LIABILITY COMPANY

Has the site use been authorized before or is it currently under lease: Yes (#) _____ No ☒ Don't Know ☒

7 III. LOCATION

8 The Body of Water on which the state property is located: GIG HARBOR BAY
 9 County in which the state property is located: PIERCE
 10 Government Lot 7, Section 05, Township 21, Range 02 E/W

11 A LEGAL PROPERTY SURVEY INCLUDING THE LEGAL DESCRIPTION AND OTHER INFORMATION ABOUT THE
 12 PROPERTY IS REQUIRED TO OBTAIN A USE AUTHORIZATION. THE SURVEY REQUIREMENTS ARE DESCRIBED IN
 13 SECTION VII, PROPERTY SURVEY OF THIS FORM. THE SURVEY PLAT WILL BE ATTACHED TO THE LEASE AS
 14 EXHIBIT A. (DO NOT HAVE THIS SURVEY CONDUCTED UNTIL YOU HAVE BEEN NOTIFIED IN WRITING THAT
 15 THE APPLICATION HAS BEEN ACCEPTED FOR PROCESSING.)

16 Physical description of Project Area (For example, Marsh, Tidelat adjacent to the Chehalis River, etc.): UNDER WATER
 17 AREA FROM PROPERTY LINE TO OUTER HARBOR LINE

19 Name of Owner(s) of Uplands, Shorelands, and/or Tidelands shoreward and adjacent to the Property:
 20 Name: RAINIER YACHT HARBOR, LLC (CONTRACT PURCHASER)
 21 Address: P.O. BOX 875
 22 City: TACOMA State: WA Zip Code: 98401 Phone Number: 253-759-2287

23 EXCEPT FOR PROPERTY LOCATED WITHIN ESTABLISHED HARBOR AREAS, PROOF OF OWNERSHIP, OR
 24 AUTHORIZATION TO USE THE ADJACENT TIDELAND, SHORELAND, OR UPLAND PROPERTY MAY BE REQUIRED.
 25 IF THE APPLICANT IS THE OWNER OF THE ADJACENT LAND, ATTACH A COPY OF THE DEED OR CONTRACT OF
 26 SALE.

27 County Parcel No(s). for adjacent properties, upland, and/or adjacent tideland properties: 5970000250

28 IV. USE OF PROPERTY

30 1. Describe, in detail, the proposed use of the Property. MARINA WITH APPROXIMATELY
 31 30 SLIPS RANGING FROM 50 FEET TO 70 FEET
 32 2. Is or will the Property be subleased to another party? Yes ☐ No ☒ (If yes, submit a copy of the sublease agreement.)
 33 3. What are the current and past uses of the site? CURRENTLY THE SITE IS VACANT EXCEPT FOR
 34 A DILAPIDATED NET SHED. PREVIOUSLY USED FOR FISHING RELATED ACTIVI
 35 4. Do you have any knowledge of contamination of the site by toxic or hazardous substances, or of past uses or practices that might
 36 have lead to contamination by such substances? If so, please explain: NO
 37 5. Do you know if any fill material has been placed on the property in question? If yes, please explain: NO

38 V. IMPROVEMENTS

PHYSICAL IMPROVEMENTS ARE STRUCTURES PLACED ON THE LAND THAT CANNOT BE REMOVED WITHOUT
 DAMAGE TO THE LAND. EXAMPLES OF SUCH STRUCTURES INCLUDE PILINGS, DOLPHINS, PIERS, WHARVES,
 PILING-SUPPORTED BUILDINGS, STRUCTURES BUILT ON FILL OR CONCRETE FOUNDATIONS, BURIED PIPELINES
 AND CABLES, AND SUPPORT STRUCTURES FOR BRIDGES.